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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

JUL 13 2010

IN AND FOR THE COUNTY OF YAVAPAI

JEANNE HICKS, Clerk
By Chamberlain
Deputy

THE STATE OF ARIZONA,)

Plaintiff,)

vs.)

No. CR 2008-1339

STEVEN CARROLL DEMOCKER,)

Defendant.)

BEFORE: THE HONORABLE THOMAS B. LINDBERG
JUDGE OF THE SUPERIOR COURT
DIVISION SIX
YAVAPAI COUNTY, ARIZONA

PRESCOTT, ARIZONA
THURSDAY, JUNE 17, 2010
8:04 A.M. - 11:44 A.M.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

JURY TRIAL

ROXANNE E. TARN, CR
Certified Court Reporter
Certificate No. 50808

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APPEARANCES

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On Behalf of the State:

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Mr. Joseph Butner and Mr. Jeffrey Paupore
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On Behalf of the Defendant:

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1 (Whereupon, the following was held in
2 open court out of the presence of the jury.)

3 THE COURT: Record reflects the absence of the
4 jury, the presence of the defendant and his three attorneys,
5 the presence of both prosecutors on the case.

6 We had a circumstance yesterday where
7 Juror No. 2 blurted out a question during the middle of
8 Mr. Butner's examination. My intention is to remind them not
9 to do that, to put their questions in writing.

10 I also think that we have been getting an
11 inordinate number of questions starting at the very top of
12 the witness. I think when Mr. Huante was on the stand, I was
13 hearing ripping of paper out of notebooks and questions that
14 were being prepared when direct examination hadn't taken very
15 long, when cross-examination hasn't taken place yet.

16 And if either party doesn't have any
17 strong objection to it, what I would like to do is tell the
18 jury, write down the questions. That is fine, so you don't
19 forget them. But many of the questions may well be asked on
20 direct or cross-examination or redirect, so that we are not
21 dealing with as many questions -- when they get the answer,
22 when one or the other of you asks that when we don't get the
23 questions, where we have to take time out of the day, like
24 this, to go over questions that probably will be asked by one
25 side or the other.

1 Any position on that?

2 MR. SEARS: Your Honor, we have been
3 discussing this very topic over the last couple of days,
4 including the session this morning. We are of two minds
5 about it.

6 On the one hand, we are all aware of the
7 traditional method that you described, which is to tell the
8 jurors to hold their questions until all the lawyer
9 examination is done and then ask them. But sometimes,
10 particularly with this many questions, by far the most I have
11 ever seen a jury ask by a long shot, that would be a little
12 bit awkward and would require some re-opening and going back,
13 et cetera, et cetera. And as long as it doesn't become a
14 distraction to the jurors, and they are not listening to the
15 testimony --

16 THE COURT: That is what I am wondering,
17 actually. One of the questions I got, I think is confusing
18 one witness' testimony for another witness' testimony about
19 what Mr. DeMocker may have said or not said, and we will
20 discuss it when I get to the questions, versus confusing
21 Mr. DeMocker with John Kennedy, and some of what he may have
22 testified to.

23 MR. SEARS: I think there is that, and I think
24 one of the functions is that some of these questions are from
25 Friday, and they may have been from the beginning of the

1 evidence on Friday, so they are a tad stale.

2 I don't have a particular problem with
3 asking them -- I wouldn't say as they come up, stopping what
4 we are doing, getting the jury question and dealing with it.
5 I am not proposing that, but not collecting them all and
6 waiting until all the lawyer questioning is done to do that.

7 I don't have a problem with particularly
8 some of these questions, because from our perspective, it
9 actually is helpful to know things that the -- some of the
10 questions are pragmatic. Are we going to see this again?
11 Could we see this exhibit? What did he just say? I think it
12 is helpful to the pace of the trial to be able to answer
13 those questions more or less on the fly. It is certainly
14 just interesting to get this window into what the jury is
15 thinking.

16 THE COURT: Mr. Butner, any thoughts on that?
17 I am not married to telling them one thing or the other. I
18 just worry about whether because they are writing down a
19 question and thinking ahead and trying to guess ahead of what
20 you or Mr. Sears or one of the other defense counsel are
21 asking, I am concerned that they are not paying attention to
22 the questions that are posed by you and the testimony given
23 by the witnesses.

24 MR. BUTNER: I think I kind of share
25 Mr. Sears' view that it is really valuable to have the

1 insight from the jury in terms of what they are thinking,
2 what they want to know from various witnesses, and quite
3 frankly, what I am leaving out in terms of direct. That
4 really helps a lot.

5 But in terms of asking the questions
6 before we get done or at some intermediate point, I think
7 that that constitutes a significant delay in the trial. I am
8 thinking if we could, in a sense, I guess give them
9 instructions that say, feel free to write your questions and
10 submit them, and we will consider the questions, and then
11 those questions deemed appropriate by the Court will then be
12 asked at the conclusion of the witness' testimony. Something
13 along those lines, more artfully spoken, I am sure.

14 THE COURT: You and Mr. Sears have a
15 difference of opinion, or whatever the consensus of the group
16 is on the defense side, may have a difference of opinion
17 then.

18 What I hear him saying is he thinks we
19 ought to ask the questions, at least, instead of saving them
20 up at particular break points in the testimony. Am I hearing
21 that wrong?

22 MR. SEARS: Well, I am somewhere in the middle
23 of that, Judge. I think we now have 53 questions so far, and
24 that is really a problem.

25 What I like is what we have been doing.

1 They come in on the next available break, looking at the
2 questions to see if there is some questions that really can
3 and ought to be answered right then, particularly questions
4 about logistics and evidence, and are we going to see that
5 again, and could you put so and so back up on the wall. I am
6 okay with that.

7 There are some questions, like some of
8 the ones today, we are going to want to make a record on.
9 There are some questions here we don't think should be asked.
10 There are some questions here that we think are going to
11 require an explanation from the Court, in addition to
12 whatever the witness might say. So I think it is inescapable
13 that we are going to have to do it the old fashioned way.

14 Rather than tell them to hold all your
15 questions and don't submit them, we are in favor of having
16 them brought up. You might want to caution them, you gave
17 them a preliminary instruction, and remember we had a
18 discussion about it, that basically told them don't let the
19 notetaking distract from that, and I think notetaking could
20 also be questions. And I think that is appropriate to say.
21 It is really important to pay attention and listen, without
22 reminding them that we have gotten questions that indicate
23 that some of them are not listening.

24 THE COURT: I will try to be diplomatic.

25 MR. SEARS: I think that is where we are on

1 this. And you can hear them, and they are passing them over,
2 they are getting Phil's attention right in the middle of
3 somebody's examination, and I think that is a little
4 distracting.

5 THE COURT: Okay. A note of concern that you
6 haven't received, but I received today. We have jurors
7 already coming in. Jury question yesterday, "evidence
8 entered into court was bicycle. During the break in the jury
9 room, two jurors were commenting on how they wish they could
10 afford, quote, an expensive bicycle like that. They
11 proceeded to state that they could only afford a Walmart or
12 K-Mart mountain bike. My understanding is that we jurors
13 remain impartial at, quote, ALL, capitalized, close quote,
14 times."

15 So, I think I need to comment about that,
16 and I will remind them they are not to comment to each other
17 about the facts of the case, personalities of witnesses or
18 lawyers, parties or other jurors, or the evidence.

19 MR. BUTNER: Agreed.

20 THE COURT: Any issue with that?

21 MR. BUTNER: No issue from the State.

22 MR. SEARS: I think that would be appropriate
23 without making reference to that specific issue.

24 MR. HAMMOND: Your Honor, I don't know if you
25 recall this, but at some point in Mr. Huante's testimony, he

1 was explaining about the bicycle and said, "if you go to
2 Walmart you will see." I assume that we have told them
3 enough times that they are not to go out and do any looking,
4 but I wondered whether somebody might say, "I will just go to
5 Walmart and see how expensive these bicycles are."

6 MR. BUTNER: That is a good idea. We might
7 tell them about that, too.

8 THE COURT: The question goes on, "Also, about
9 computer use, can we use our computer e-mail for our daily
10 lives? There is a juror confusion about not being able to
11 get their e-mail. Thank you."

12 My answer to that is: Yes, you can
13 receive your e-mail and go on Internet, but do not do any
14 research. I will re-emphasize the don't do any research, but
15 in terms of not communicating about the case, not receiving
16 e-mails about the case, not sending e-mails about the case, I
17 will re-emphasize that.

18 MR. BUTNER: That was my concern, Judge. I
19 can just see them getting some sort of an e-mail blast or
20 something into the jury room, or wherever they are at, about
21 the DeMocker case. That would be awful. Special kind of
22 caution about that.

23 MR. SEARS: I think another piece is, Your
24 Honor, we circulated among ourselves an article that we found
25 over the weekend with some real horror stories from cases

1 about juror research and the things they were doing in some
2 of the criminal cases and the terrible outcomes. One of the
3 points made in the article was that people have access to all
4 of this on their phone. All of us have Internet access on
5 our phones in the courtroom.

6 THE COURT: Not all of us. I have to go over
7 here.

8 MR. SEARS: Point being, I think we need to
9 emphasize this includes using your iPhones, Blackberry. I
10 know we talked about that, but they don't need to go home and
11 use their computer. They can sit in the jury room during a
12 break and look at the Internet on their phone.

13 THE COURT: Some of us are still living in the
14 dark ages.

15 MR. BUTNER: Yes, we are. Very dark in some
16 cases.

17 THE COURT: Let's quickly get onto some of the
18 questions.

19 I think the questions last week were
20 mostly covered. "Why was the tape recorder outside, not out
21 in plain view?" I think we covered that. "Are we going to
22 listen to more of the tapes? Can we have transcripts that go
23 with them?" We covered that.

24 I think the question was answered about
25 whether anyone from the Sheriff's office has gone up the

1 trail.

2 "Did Mr. DeMocker know he was being
3 recorded? Who handled Interview No. 2?" I think those
4 questions were asked already.

5 I am not certain about "Were all
6 scratches on the left side, or did he also have scratches on
7 the right side?" I think that has been answered.

8 MR. BUTNER: I think it was.

9 THE COURT: Mr. Hammond.

10 MR. HAMMOND: I think John will probably want
11 to talk about that with the witness on cross.

12 THE COURT: Mr. Sears, question from last
13 week, were all scratches on the left side, or did he also
14 have scratches on the right side, do you want that one in?

15 MR. SEARS: That is going to be part of the
16 cross-examination.

17 THE COURT: As part of this, do you want me to
18 ask some or all or any of these questions at this point
19 before the examination even begins, the cross-examination?

20 MR. SEARS: There are just a few. The vast
21 majority of these are either ones that have been asked, we
22 will talk about the ones that can't be asked, and there are a
23 couple that we wanted to call to your attention and get you
24 involved in answering them, at least in one case, making an
25 explanation to the jury, and it might be faster to go to

1 those.

2 THE COURT: Do you have any objection?

3 MR. BUTNER: No, I don't. There is one
4 question that I had in mind that calls for an explanation by
5 the Court. That is the one about, are portions of the
6 videotape, have they been redacted? And I think the Court
7 needs to tell the jurors that, in fact, pursuant to the
8 Court's order, certain sections of the videotape have been
9 redacted, or are not for viewing by the jury based upon
10 rulings by the Court. Something along those lines. Because
11 it is obvious that certain sections have been cut out. That
12 was the -- to be more specific, that was the video interview
13 or interviews of the defendant.

14 THE COURT: Okay. Mr. Sears, I will go about
15 it your fashion.

16 MR. SEARS: And we pulled these apart, Your
17 Honor, so I am not sure they are in the same order.

18 There are a series of questions from
19 jurors wanting to know the length of Sergeant Huante's
20 videotaped bike ride, both, I think, in the length in miles
21 and the length of time it took.

22 You will recall that you precluded the
23 State from offering that as a reconstruction of the ride,
24 because it was determined that it wasn't scientific. It
25 didn't accurately reproduce Mr. DeMocker's ride, and it would

1 be admitted as the State offered it, simply as an
2 illustration of what a portion of Mr. DeMocker's stated route
3 looked like. Any number of jurors have asked about that.

4 I think this is a question where, rather
5 than not asking that, because so many jurors, different
6 jurors, apparently, have asked in different ways about the
7 timing of that, it is obviously in their mind and it somehow
8 related to Mr. DeMocker's explanation of where he went and
9 how long he was gone for.

10 And I think it would be appropriate for
11 the Court to address this one, and to say, the videotape was
12 prepared and offered for the limited purpose of showing you
13 what a portion of the ride that Mr. DeMocker said he took
14 looked like, period. That it was not intended to be an
15 accurate -- it was not intended to be and is not an accurate
16 depiction of the entire route that Mr. DeMocker said he rode,
17 and it was not offered for the purpose of demonstrating how
18 long it would have taken Mr. DeMocker to ride his route that
19 night, or something like that.

20 MR. BUTNER: I don't think -- I think that
21 that is too much information from the Court, Judge. I think
22 you can say what it was offered for in terms of the limited
23 purpose, and I think that that is where the instruction
24 should stop. I think that going beyond that --

25 THE COURT: Is a comment on the evidence.

1 MR. BUTNER: Exactly.

2 -- is a comment on the evidence and
3 invades the province of the jury.

4 MR. SEARS: Your Honor, I would suggest it is
5 not a comment on the evidence. It is a response to a series
6 of juror questions wanting to know that information. Either
7 they are not going to be told anything about it, or they are
8 going to be given a truthful explanation about what that was,
9 consistent with the Court's ruling, and I think what I just
10 said is what the Court's ruling was. It is not commenting on
11 the evidence. It is simply stating it was offered for the
12 limited purpose of visually depicting a portion of where
13 Mr. DeMocker rode, period.

14 It was not an attempt to actually
15 recreate his ride or to demonstrate the length of time that
16 it would have taken for that ride. That is what the jury is
17 asking. It is very clear from these questions the jury wants
18 to know that this is somehow a scientific experiment that
19 would be used to rebut Mr. DeMocker's account of where he was
20 and what he was doing.

21 MR. BUTNER: What Mr. Sears said just before
22 he said "period" is probably what should be given to the
23 jury, not the remainder of his speech.

24 THE COURT: How about this: The videotape
25 offered -- the videotape admitted regarding Sergeant -- well,

1 let's put, Sergeant Huante's videotape was admitted for the
2 limited purpose of showing a portion of the trail and the
3 appearance of that portion, and is not admitted as a
4 recreation of the entire ride or how long it would take.

5 MR. BUTNER: That's fine.

6 MR. SEARS: I think that is fine. I may have
7 some additional cross-examination that will make that clear
8 without asking that question about where did Mr. DeMocker
9 tell you to ride?

10 There is another juror question about why
11 did you start at 309, Love Lane? There are juror questions
12 that suggest logical cross-examination.

13 THE COURT: Are you satisfied with that as an
14 explanation before we even get started on the cross, and the
15 added admonition or limited instruction?

16 MR. SEARS: Yes, please. Thank you.

17 MR. BUTNER: Judge, would you say the
18 instruction again.

19 THE COURT: Sergeant Huante's video was
20 admitted for the limited purpose of showing a portion of the
21 trail and the appearance of that portion. It was not
22 admitted as a recreation of the entire ride by the defendant
23 or how long it would take.

24 MR. BUTNER: I think that is good. Thank you.

25 THE COURT: And then to indicate portions of

1 interview video -- video of defendant's interview, have been
2 redacted by order of the Court for reasons of the rules of
3 procedure and evidence.

4 MR. SEARS: I would just as soon you not
5 comment on that, Your Honor. Our position would be that you
6 not answer that question.

7 THE COURT: On redaction?

8 MR. SEARS: Yes, Your Honor. I think it calls
9 unnecessary attention to the few places where it was cut.

10 THE COURT: Mr. Butner?

11 MR. BUTNER: I think it is necessary, Judge.
12 You can tell that it was redacted, and the jury is obviously
13 concerned about that. They asked a question about it, and I
14 think they should be given a narrowly crafted instruction,
15 just like you were doing, about that.

16 THE COURT: I think I will refrain from
17 commenting further on that. And it is correct that even when
18 it was presented, Mr. Butner made comment in court in the
19 presence of the jury, if I recall correctly, that breaks had
20 been redacted out already. So I think there is some
21 indication that it has been redacted already.

22 MR. SEARS: They are also going to receive a
23 redacted transcript at the end of the case that will cover --
24 that will give them assistance of what they actually saw and
25 heard in court.

1 MR. BUTNER: Judge, I think you really need to
2 say something. You don't have to say in accordance with, et
3 cetera, et cetera, but I think that you need to tell them
4 that it wasn't our choice to take those things away from the
5 jury and cut pieces out of the video, but rather, it was
6 something that was necessitated by the rules of court and the
7 rules of law.

8 THE COURT: What is the prejudice if I state
9 something along those lines, Mr. Sears?

10 MR. SEARS: It just calls undue attention to
11 the fact that it was edited. I mean, the video was of such
12 poor quality, particularly at the end where it was breaking
13 up. I don't know what the jury was thinking about it.

14 THE COURT: I don't know what I was thinking
15 about that.

16 MR. SEARS: I just think it is unnecessary. I
17 think your initial instinct was correct. I don't think it is
18 a matter that needs to be discussed.

19 THE COURT: Let me look at the question and
20 see what level of concern there really is there.

21 You had some other questions. I guess I
22 had them organized just by when they came in. "Are the front
23 and rear tires original to the Gary Fisher bike?" "Did the
24 deputy physically take either the front or back bike tires on
25 the east side of the Glenshandra locked gate?" I think,

1 frankly, that has been asked and answered.

2 MR. SEARS: I don't think the question about
3 are the front and rear tires original to the Gary Fisher bike
4 has been asked. And I think that is one that -- I doubt that
5 Sergeant Huante can answer that question, and I suggest that
6 you would tell the jury that that question may be answered
7 through the testimony of future witnesses.

8 THE COURT: I may tell them a lot of these
9 questions may be answered through future witnesses.

10 MR. SEARS: Unless the State suggests that
11 Sergeant Huante knows the answer to that.

12 THE COURT: Sergeant Huante is in the room.

13 Sergeant Huante, do you know the answer?

14 THE WITNESS: No, I don't.

15 MR. HAMMOND: I noticed that Sergeant Huante
16 was here a moment ago. I just began to realize, this is the
17 first time when we have had the consideration of juror
18 questions out of the presence of the jury that a witness has
19 actually been privy to the conversations.

20 THE COURT: That's true.

21 MR. HAMMOND: I don't know that there is a
22 rule that says anything about this. I am pretty sure there
23 is not. But I think, at least for consistency sake, we ought
24 to decide whether we are going to have the witnesses hear
25 these conversations or not.

1 THE COURT: About jury questions?

2 MR. HAMMOND: About jury questions. I don't
3 know if it would shape any witness' testimony or cause them
4 to be alert to something they otherwise shouldn't be alert
5 to. I just know that consistently we haven't had the witness
6 privy to --

7 THE COURT: Most frequently we have been in
8 chambers.

9 MR. HAMMOND: We have either done it on the
10 side or we have done it in chambers. I don't think we have
11 done it in the courtroom before.

12 THE COURT: I don't think there is a rule on
13 it. I don't have a problem if Sergeant Huante is here on
14 these.

15 Did Mr. DeMocker's GPS system show
16 anything definitive, it asks.

17 MR. SEARS: That's on cross-examination, Your
18 Honor. Sergeant Huante may not know. We can ask whether he
19 knows anything about the results of the examination of the
20 GPS or not. I think the answer is going to be that it didn't
21 do that.

22 THE COURT: I don't really want to get into
23 the back and forth. You can ask him after we are done.

24 "Was Deputy Scott Joy sent to watch the
25 Alpine condo before or after this video interview?"

1 MR. SEARS: That would be part of
2 cross-examination.

3 THE COURT: Okay. "Did anyone from the
4 Sheriff's office go back out to the west side of Williamson
5 Valley Road, Love Lane area in daylight to see if the bike
6 tracks were visible where Mr. DeMocker said he was riding?"
7 I presume that is part of your cross.

8 MR. SEARS: It is. That question was asked a
9 number of different times already and a number of different
10 ways. It is certainly part of my cross-examination.

11 THE COURT: I think these are covered. "Did
12 or had Steve changed his bike tire?" Were the front and rear
13 tires the same treadwise?" "How many items found" -- this
14 one wasn't -- "Was it a full load in the washer, or how many
15 items were found?"

16 MR. SEARS: We are going to do that in
17 cross-examination. We have pictures of what was found.

18 THE COURT: Questions about, "How hard to
19 patch a rear bike tire in the dark? Have you ever had to do
20 that?"

21 MR. SEARS: Sorry, Your Honor?

22 THE COURT: Patching a rear bike tire.

23 MR. SEARS: We are going to talk about fixing
24 a flat in further testimony.

25 THE COURT: Any others that particularly you

1 want me to ask before we get Juror No. 8 in here?

2 MR. SEARS: Yes, Your Honor. There are a
3 couple.

4 It has to do -- there is a question, "How
5 many murder scenes have you investigated? From that number,
6 do you concede that you know about blood spatter and
7 directions by now?" I think that question can't be asked of
8 Sergeant Huante. I think he has conceded and the Court has
9 previously found that he is not an expert in blood spatter.
10 And I think it would be appropriate for the Court to advise
11 the jury that Sergeant Huante is not an expert in blood
12 spatter analysis in this case.

13 That would stop the need for the defense
14 to have to object on those grounds to questions asking --
15 further questions asking him about blood spatter expert
16 analysis.

17 THE COURT: Mr. Butner?

18 MR. BUTNER: Judge, I think that is an
19 appropriate question to ask of Sergeant Huante.

20 THE COURT: If he is an expert in blood
21 spatter?

22 MR. BUTNER: No. Just to a limited degree.
23 He can qualify his answer, or it can be qualified he is not
24 an expert on blood spatter, but he was talking about just the
25 different directions of the blood flying, so to speak, which

1 caused him to be suspicious. That is not something you need
2 to be an expert on. It is something that you need to have
3 experience with, and I think Sergeant Huante can testify
4 about his experience in that regard.

5 THE COURT: Mr. Sears?

6 MR. SEARS: Your Honor, that is precisely the
7 kind of testimony that is the subject of expert testimony;
8 velocity, drying rates, humidity, angles, any interpretation
9 of that. He is not offered as an expert. He can't qualify
10 as an expert. He said he is not an expert in that area, and
11 I think the jury needs to be instructed as to Sergeant Huante
12 at this point, that he is not an expert on any analysis of
13 blood spatter evidence.

14 THE COURT: I will deny a request for
15 instructing the jury or commenting on the evidence to that
16 extent. Won't preclude you from cross.

17 MR. SEARS: I would ask that this question not
18 be asked, because it invites him to give further testimony
19 that would --

20 THE COURT: I will not ask the question.

21 MR. SEARS: Thank you, Your Honor.

22 I have another matter that I think is
23 something the Court needs to look at. It is a series of
24 questions, and No. 4 was, "Was there any of Carol Kennedy's
25 blood on Steve's bicycle handle bar or any part of the

1 bicycle?"

2 And this Court, you will recall, not that
3 long ago entered a ruling precluding the State from offering
4 certain evidence about some late swabbing and testing of the
5 bicycle seat and bicycle handle bars in this case.

6 We intend, unless the Court rules in a
7 particular way, to cross-examine Sergeant Huante today about
8 the fact that Kortney Snider was there, that she swabbed the
9 bicycle at the scene on July 3rd. That a drop of blood was
10 detected on the frame pump, which was collected and tested
11 separately, and the blood was analyzed and determined to be
12 Mr. DeMocker's, and there was no other blood evidence
13 detected on the bike.

14 That is all true, but we want to be sure
15 that the State doesn't come back and claim that that somehow
16 opens the door for them to re-litigate this issue of the
17 disputed evidence regarding the handle bars and the seat.

18 THE COURT: That would not re-open the door to
19 that limited question. The questioning you described would
20 not open the door.

21 MR. SEARS: Thank you, Your Honor.

22 I think those are the matters that we
23 wanted. That same list of questions, the same juror asked,
24 "Did Mr. DeMocker at any time ask for a lawyer?" I think
25 that is a question that should not be asked.

1 THE COURT: I agree.

2 MR. BUTNER: I agree with that, too, Judge,
3 but that is exactly why the Court needs to say something to
4 the jury about portions of the video interview of the
5 defendant have been redacted by order of the Court.

6 THE COURT: I will deny that request.

7 MR. SEARS: What request, Your Honor?

8 THE COURT: For commenting on the redaction.

9 MR. SEARS: Thank you, Your Honor.

10 There is a question from a juror that
11 says, "Did the tire, parentheses, inner tube, in your opinion
12 seem too dried out to be used?"

13 Sergeant Huante is not and did not and
14 could not qualify as an expert in that area, and I would ask
15 that that question not be asked of him, because it would
16 solicit improper expert opinion. I don't think they could
17 possibly lay a foundation that he would be able to meet to
18 allow that question to be asked.

19 MR. BUTNER: I don't think that is an area
20 that requires any kind of special expert training or
21 education. That is a matter of common experience for bicycle
22 riders, and obviously, Sergeant Huante has had a significant
23 amount of experience riding a bicycle, some of which you had
24 to watch in court. But he already testified about four years
25 riding mountain bikes. So I think a question like that is an

1 appropriate question from the juror to a lay witness.

2 MR. SEARS: Your Honor, I think --

3 THE COURT: I don't. I am not going to ask
4 that one.

5 MR. SEARS: Thank you, Your Honor.

6 There is another question that we think
7 should be asked. "Why would a text come back to the phone?"
8 I don't understand the question. We tried overnight to think
9 what the juror might be thinking of, but we concluded that,
10 "A" the question is impossible to understand, but also that
11 in all likelihood Sergeant Huante is not qualified as an
12 expert.

13 Just this week interviews were done of
14 D.P.S. criminalists at the computer forensic lab, and they
15 talked about the protocols for analyzing and evaluating and
16 protecting evidence from phones and PDAs, and what we saw
17 thus far from Sergeant Huante on direct was that he was
18 obviously not familiar with or aware of any of those
19 protocols. So I don't think he could qualify as an expert to
20 answer that question. There may well be other experts --

21 THE COURT: I won't ask that question. The
22 one I was referencing earlier, and maybe you all know the
23 evidence -- well, I am sure you know the evidence better than
24 I do, and I know that you have transcripts of the interviews
25 that I don't have, but the question -- the second question on

1 that same page from the juror was, "Did you notice that Steve
2 told you in his interview that he didn't have a contact
3 number for Jim Knapp, but Jim Knapp's number is in his
4 phone?"

5 MR. SEARS: We are going to address that.
6 There is actually questions about that on the video interview
7 that we played yesterday, and we have the transcript prepared
8 by the State of that interview that I think answers that
9 question. That will be used on cross.

10 THE COURT: Okay.

11 MR. BUTNER: Judge, before you go off of that,
12 first of all, I didn't hear what the first question was
13 clearly from Mr. Sears, so I don't even know what we are
14 talking about.

15 THE COURT: The first question on that sheet?

16 MR. BUTNER: Yeah.

17 THE COURT: The first question on that sheet
18 is, "Why would a text come back to the phone?"

19 The second question on the same note from
20 the juror is: "Did you notice that Steve told you in his
21 interview that he didn't have a contact number for Jim Knapp,
22 but Jim Knapp's number is on his phone?"

23 I think the question assumes facts that I
24 don't think are in evidence.

25 MR. BUTNER: They are in evidence. There was

1 testimony yesterday about a text coming back to the phone,
2 and that was a text --

3 THE COURT: No. The second question.

4 MR. BUTNER: You are talking about the second
5 question. Are you going to ask the first question?

6 THE COURT: I wasn't.

7 MR. BUTNER: I think that you should ask the
8 first question, Judge.

9 THE COURT: What is the answer?

10 MR. BUTNER: I don't know. You are asking the
11 wrong guy about that techno stuff, but Sergeant Huante knows
12 about cell phones and uses them.

13 THE COURT: I don't think the mere use of a
14 cell phone qualifies him to answer that question. So I am
15 not going to ask that one. I will see after
16 cross-examination if it should be asked, but at this point I
17 don't see Sergeant Huante as an expert in that field.

18 MR. BUTNER: I don't think you need to be an
19 expert for that.

20 Going to the second question, are you
21 going to ask that question, Judge? I mean, I think it should
22 be asked. It was obvious --

23 THE COURT: You all have the transcript. I
24 don't have the transcript. Was Mr. DeMocker commenting in
25 his interview that he didn't have a contact number for Jim

1 Knapp?

2 MR. BUTNER: Yes. He said just exactly that.
3 He said no. He was asked that question.

4 THE COURT: What page or line can you refer me
5 to?

6 MR. BUTNER: The interview transcripts are
7 back in the office being copied right now so that they can be
8 submitted with the redacted video.

9 THE COURT: Do you concede the point,
10 Mr. Sears?

11 MR. SEARS: No. There is a transcript
12 reference from part of the videotape interview in which there
13 is a context to that, and I intend to cross-examine Sergeant
14 Huante with that and show him the portion of the State's own
15 transcript that does that. And if there is still some
16 question about it, we will locate and play from the redacted
17 audio.

18 MR. BUTNER: Could you read that portion,
19 please, Mr. Sears, so the Court and counsel know exactly what
20 we are talking about?

21 MR. HAMMOND: Your Honor, this does return to
22 my question about having Sergeant Huante in the room.

23 THE COURT: Sergeant Huante, I will ask to you
24 leave the room for the time being.

25 (Whereupon, Sergeant Huante exits the courtroom.)

1 THE COURT: If you are going to ask it in
2 cross, I am not going to ask it before we get to that point.
3 I will see if it is an issue later on.

4 Anything else that you think I need to
5 ask or submit prior to the cross-examination?

6 MS. CHAPMAN: Your Honor, there are several
7 other questions that we don't think should be asked. I don't
8 know if you want to look through those now or just wait. The
9 rest of them we are going to deal with in cross.

10 THE COURT: I think I will just wait.

11 MR. BUTNER: So, Judge, are we off of the
12 question about Mr. Knapp being a contact?

13 THE COURT: I think so.

14 MR. BUTNER: What is the Court's ruling?

15 THE COURT: I am not going to ask the question
16 preliminary to the cross-examination.

17 MR. BUTNER: Oh.

18 THE COURT: If there is still an issue about
19 it after the cross-examination --

20 MR. SEARS: We may be able to locate that on
21 the DVD so we can also play it, in case there is any --

22 THE COURT: Okay. So in terms of the jury
23 questions that you want me to address before
24 cross-examination commences, it would only be with reference
25 to the questions of length and miles of trip, and without

1 saying anything besides I received several questions about
2 the Huante video showing the trail, I would simply advise
3 them about what we talked about, that it was admitted for a
4 limited purpose. That is the only question I think I will
5 get to before cross-examination. We will see what is left
6 after that, unless you have something else that you think I
7 need to cover before cross-examination.

8 MR. SEARS: No. You were going to give them a
9 general instruction -- two instructions. One about not
10 letting questions and notetaking, and also one about watch
11 out for your PDAs and cell phones and talking about the case
12 prematurely and spouting out questions rather than writing
13 them down.

14 THE COURT: Yes.

15 Let's have Mr. Lopez. And Mr. Huante can
16 come back in.

17 (Whereupon, Juror No. 8 enters the courtroom.).

18 THE COURT: Good morning, Mr. Lopez. Please
19 be seated.

20 The record reflects that the rest of the
21 jurors are not present. The defendant, defense team are
22 here, the prosecution team are here, and we have Juror No. 8
23 again with us.

24 We had had some discussions last week
25 about some problems that the particular juror was having, in

1 particular with regard to work and the finances and other
2 obligations for driving his kids for travel. Yesterday,
3 Mr. Lopez provided to me some time frames again for when the
4 kids are coming back, what his mom's surgery plans are.

5 And I recognize that next week on the
6 23rd, Wednesday the 23rd, is what I was considering for half
7 a day only of testimony, so that he could do that, if we were
8 going to try to keep him on the jury.

9 Tell me how things went with the shorter
10 week, or have gone with the shorter week, or what other
11 issues you may have, Mr. Lopez, about staying on this jury.

12 JUROR NO. 8: Well, I called my mom over the
13 weekend, and she told me, everything was okay, you don't have
14 to come, this and that. But then on Monday, I got a text
15 message from my brother that is in Mexico, and he told me are
16 you coming? What did mama tell you, because she is hiding
17 pretty much everything -- not everything, but the importance
18 of the surgery. I was like, well, she told me that was not
19 that big of a deal. And he said, well, she is having surgery
20 but it is kind of serious, but she is, like, doesn't want you
21 to get concerned about it too much, to worry, or to rush
22 everything and come over here, and so she was pretty much
23 hiding the bad stuff from me, so I don't get concerned.

24 Over the weekend -- and then I talked to
25 her on Monday, because Monday was her birthday. She is 62

1 now, and she was, well, yeah, but it is not like I am going
2 to die or something. Well, you never know. It has been like
3 four years since I see you last time, and I don't want
4 anything bad happen to you, and because if it does, I be over
5 here and never get a chance to see you again. And, well, she
6 is expecting me to go, and I was expecting to go, too.

7 And over the weekend with my wife, I only
8 work on Saturday, Sunday and Monday, and on Tuesday they
9 called me, but I went and filled in for two hours only, and I
10 came back. That day when I came back, everybody was like
11 getting up at home, and so we just did some sandwiches,
12 packed everything and we went to the park and spent the day
13 with them. She was okay, but out of the four days, I sleep
14 two with her in the bed in my room.

15 THE COURT: What do you think, in terms of now
16 you have seen some of the four-day schedule, the three-day
17 schedule. Do you think that serving on this jury is going to
18 represent continuing hardship to you?

19 JUROR NO. 8: In my relationship, yeah.

20 THE COURT: Follow-up questions, Mr. Butner?

21 MR. BUTNER: I don't have anything. No
22 follow-up.

23 THE COURT: Mr. Hammond?

24 MR. HAMMOND: No, Your Honor. I don't have
25 any more follow-up questions. I appreciate Mr. Lopez sharing

1 this information with us.

2 THE COURT: Thank you. I will have you take a
3 seat back in the jury room. We will discuss the situation.

4 JUROR NO. 8: Thank you.

5 THE COURT: Don't discuss this with the fellow
6 jurors.

7 (Whereupon, Juror No. 8 exits the courtroom.)

8 THE COURT: Record reflects the juror has left
9 the room.

10 Gentlemen?

11 MR. BUTNER: State has no objection if this
12 juror is excused for hardship, Judge.

13 THE COURT: Do you folks need a discussion?

14 MR. HAMMOND: No. We have had a conversation
15 about this, Your Honor. Let me break this into two pieces.

16 If this were an issue with respect to his
17 employment and his home life, I don't think we could join in
18 an excusal for hardship. There are some other kinds of
19 hardships that may befall any juror. So we would object on
20 that ground.

21 The health of his mother is a closer
22 question for us, and I think his answers are still -- and it
23 is not his fault. I think it is the nature of having your
24 mother so many miles away and having to get there by car as
25 opposed to being able to fly. I think that raises a very

1 serious question, and I will tell you, we are on the horns of
2 a dilemma here on our side.

3 If this were a trial that was only going
4 to go another week, we probably would say, no harm, no foul,
5 let him go. But it is not going to go another week. It is
6 going to go a lot longer than that, and our concern is that
7 we would now be down to four alternates with a huge amount of
8 time left in this trial.

9 And I am something of a veteran of long,
10 painful trials, and one of the things that happens is jurors
11 do get a run on these ideas. They see someone excused, and
12 they kind of have a what-the-hell response to it. Why is
13 somebody else getting off and I am not, and people start
14 manufacturing health considerations, and it becomes hard once
15 you started down that slope not to excuse others. I am sure
16 the Court has a lot more experience than I ever will.

17 I find it dangerous to excuse a person
18 for a family hardship unless we are very clear that this is a
19 unique situation that typically the Court would not have
20 to -- would not accommodate. I think that is a long way of
21 saying we are very uncertain about what ought to be done on
22 that particular issue.

23 On the rest of it, I would just say he is
24 stuck. You were very generous in accommodating him to take
25 half a day off next week. I think that was going far out of

1 everyone's way to do that.

2 THE COURT: I am not going to excuse him. If
3 you would ask him to step back in, I am going to advise him
4 of that.

5 (Whereupon, Juror No. 8 enters the courtroom.)

6 THE COURT: I just wanted to advise you,
7 Mr. Lopez, that I will accommodate the request and only have
8 a half a day next week. I am going to keep you on the jury,
9 though.

10 Your mother's situation -- while I am
11 sympathetic to you and your mother's situation, I take her at
12 her word. It doesn't sound like it is going to be something
13 that is life threatening, despite the pleas of your brother
14 that you come down. I don't find that that is a sufficient
15 basis for excusing you from the jury at this time.

16 So you will have to advise your mom and
17 your brother that you are not going to be able to come down
18 for that surgery. I do wish her well. We all wish her well
19 in terms of her surgery and her recovery, but I think based
20 on what she has said to you, that is not the kind of life
21 threatening situation that would allow me to excuse you from
22 jury service.

23 We will accommodate your request and let
24 you have half a day. I will advise the rest of the jurors
25 that next Wednesday will be half a day. Full day Tuesday,

1 half a day Wednesday, full day Thursday and full day Friday.

2 If things change, don't hesitate to send
3 me another note.

4 MR. BUTNER: Judge, what are the hours on the
5 half a day on June 23rd?

6 THE COURT: We are going to go from nine
7 o'clock to noon.

8 JUROR NO. 8: Thank you.

9 (Whereupon, Juror No. 8 exits the courtroom.)

10 THE COURT: Juror has left the room again.

11 Anything else, Mr. Butner, before we get
12 started?

13 MR. BUTNER: Nothing further from the State,
14 Your Honor. Thank you.

15 THE COURT: Mr. Sears?

16 MR. SEARS: Your Honor, one additional
17 question that I thought should not be asked. "Did you ever
18 show this video to Steve and ask him to point out where he
19 thinks he got hurt?" I think the video was two-and-a-half
20 weeks after the murder, and I think it would implicate his
21 right to counsel. By then he had retained counsel.

22 THE COURT: I wasn't intending to go near that
23 one.

24 MR. SEARS: Thank you.

25 There are a couple of photographs that we

1 are trying to print out. If we could have a break here and
2 print those out.

3 THE COURT: It is nine o'clock. Let's hurry.

4 MR. SEARS: Thank you, Your Honor.

5 (Brief recess.)

6 (Whereupon, the jury enters the courtroom.)

7 THE COURT: Thank you. Be seated, please.

8 The record reflects the jury is present.
9 The defendant, Sergeant Huante is still on the stand,
10 Mr. Sears, Ms. Chapman, Mr. Hammond for the defense,
11 Mr. Butner, Mr. Paupore for the State.

12 Ladies and gentlemen, I wanted to talk to
13 you a little bit as we commence this morning about a couple
14 of matters. I advised you at the beginning of the case, of
15 course, that when we are conducting the examination of any
16 particular witness, the person presenting or side presenting
17 the witness conducts direct examination. Then there is
18 cross-examination, and then there is the possibility of
19 redirect examination, and throughout the course of the
20 process, you are allowed to ask questions.

21 I notice that we have been receiving many
22 questions. I am not trying to discourage questions, but I
23 will note that some of the questions are being written out at
24 the very commencement of the direct examination. And while
25 it is important for you to remember the questions that you

1 want to ask, it is also important to listen to the evidence
2 as it is being presented.

3 I talked to you about taking notes, and
4 the same thing applies to the questions. Don't let the
5 notetaking or question writing distract you from what the
6 witness is testifying to. I think you will find in the
7 course of the presentation of any particular witness that
8 many of the questions that you are asking at the very front
9 end are ultimately asked during the direct examination and
10 the cross-examination. And I am just expressing to you a
11 concern about paying attention to the questions that are
12 asked and the responses that are given.

13 The testimony of the witness is what is
14 important in the case, and I imagine that most of your
15 questions you will find are asked -- and that is why I am not
16 discouraging you from asking questions. You may find that
17 some of the questions are not asked. But be careful about
18 the writing down of the questions. Don't forget to listen to
19 what the evidence is that is being presented.

20 You all have been together now for quite
21 a while, and you get to know each other. You get friendly
22 with each other, and the temptation comes to start talking
23 about the case. I need to remind you about talking about the
24 case. Don't discuss the case. What I am talking about
25 that -- what I mean is it is tempting to start talking about,

1 you know, the personalities of the witnesses or the lawyers
2 or the judge, for that matter, or lack of personality as the
3 case may be, and to talk about the facts of the case, to do
4 research about the case, and those sorts of things.

5 You need to stay objective. You need to
6 stay open minded, not start making decisions about the case.
7 So don't comment to each other about the facts of the case,
8 the personalities of the witnesses or lawyers, or the nature
9 of the evidence, the quality of the evidence. And as you get
10 to know each other better, and you are all stuck in the jury
11 room together before and after the trial and during the
12 breaks and those sorts of things, the more it is that you're
13 tempted to make comments or quips about something that is
14 happening in the case. Don't do that.

15 The jurors are supposed to remain
16 impartial at all times and decide the case just based on the
17 evidence presented here in court, and not supposed to
18 start -- that is why somebody, I think, in the selection
19 process asked about carpooling together. If you're
20 carpooling together, again, there is a temptation for you to
21 start affiliating with the other guy that you are riding
22 with, or gal that you are riding with, and just talking about
23 the decision that you are ultimately going to have to make.

24 This is a long trial. I know that you
25 recognize that. And so to the extent that you start talking

1 about facts of the case, you are going to be led into a
2 process of making your decision earlier than it is supposed
3 to be made. Keep an open mind.

4 Again, I will remind you, apparently
5 there was some question or concern about whether we as jurors
6 can use our computers, like can I look at my e-mail? I am
7 not barring you from looking at your e-mail. I am only
8 barring you from doing any research about the case or
9 investigation about this case.

10 If you get e-mail for business purposes
11 or personal purposes, there is nothing wrong with using your
12 e-mail. Just don't talk about the case on your e-mail. You
13 are not to talk to anybody else, again, and it is not because
14 of a fear that we have about your integrity. The fear is
15 that your talking about the case invites a response and
16 communication going back and forth with the other person that
17 is on the other end of the e-mail. So if you are e-mailing
18 anything other than, I am on a jury and, sorry, the Judge
19 tells me I can't talk about it. I can tell you the length of
20 the anticipated trial, but that is it. That is the most I
21 want you communicating on the e-mail. And you shouldn't be
22 the one instigating that either, because it invites them to
23 ask, well, what is the trial about? And I don't want you
24 doing that.

25 Don't discuss the case, the lawyers, the

1 facts, anything else in any e-mails, but sure, you can use
2 your e-mails for business or personal purposes. You are not
3 restricted from doing that.

4 It has been pointed out to me, I am not
5 opposed to technology. I am just not very good at much of
6 it, but it has been pointed out to me that people have things
7 called Blackberrys. I am trying to get used to the cell
8 phone part, not the Blackberry part. So I don't have that,
9 but many you of may, and some of those will access Internet,
10 even can do it here in the courthouse and here in the jury
11 room. So I will remind you, don't do any research about the
12 case. Don't go to the store and do pricing of mountain bikes
13 or looking at mountain bikes. I am not barring you from
14 going to Walmart. I am not barring you from going to K-Mart.
15 I am not barring you from going to Target.

16 You are supposed to be receiving your
17 evidence here in court and only here in court. To the extent
18 you are curious about looking at mountain bikes, avoid the
19 curiosity until the case is over. Don't do any research,
20 even in the shopping centers. So I am not saying don't shop.
21 You got to stay alive, but you must remain neutral and
22 objective and receive the evidence and base your decision
23 only on the evidence produced here in court.

24 I don't have an iPhone. I don't have
25 Blackberrys. Don't use those in connection with the case at

1 all in any regard or the lawyers or the witnesses or the
2 parties.

3 There were some questions, and basically,
4 on the questions, I am going to hold off on asking jury
5 questions of the witness until after the cross-examination
6 and redirect examination. We will see if there is anything
7 left of your questions after that is done. I may change that
8 routine with additional witnesses as we go, but having gotten
9 to this point with this particular witness, that is how I am
10 going to do it.

11 I did, however, have some questions about
12 Exhibit 216, which was the videotape by Sergeant Huante of
13 his own going up a trail or particular trails of the Granite
14 Mountain area. Let me instruct you that Sergeant Huante's
15 video was admitted for a limited purpose of showing a portion
16 of the trails and appearance of that portion. It was not
17 admitted as a recreation of the entire ride by Mr. DeMocker
18 or how long it would take.

19 Are you prepared for cross?

20 MR. SEARS: I am, Your Honor.

21 THE COURT: You may proceed.

22 MR. SEARS: Before I do, Your Honor, we have a
23 brief stipulation with respect to Exhibits 2588 through 2593,
24 inclusive, for identification. The stipulation would be that
25 they could be admitted, Your Honor.

1 THE COURT: 2588 through 25?

2 MR. SEARS: 93.

3 THE COURT: 93.

4 MR. BUTNER: No objection.

5 THE COURT: Ladies and gentlemen, Exhibits
6 2588 through 2593, inclusive, are admitted.

7 You may proceed.

8 LUIS HUANTE,
9 previously called as a witness, having been duly sworn,
10 testified further as follows:

11 CROSS-EXAMINATION

12 BY MR. SEARS:

13 Q. Sergeant, good morning.

14 A. Good morning.

15 Q. Good to see you again.

16 Can we talk for a little bit here at the
17 beginning about your experience with the Yavapai County
18 Sheriff's office. You told us on Friday, I believe, that you
19 had been with the Sheriff's office for 17 years now; is that
20 right?

21 A. Yes.

22 Q. And a large portion of that time, I know that you
23 were a detective in the criminal investigation section; is
24 that right?

25 A. Yes. Approximately 11 years.

1 Q. And currently, though, you are not assigned to
2 criminal investigations, and you are no longer a detective;
3 is that correct?

4 A. That's correct.

5 Q. You are a patrol sergeant; is that right?

6 A. Yes.

7 Q. Tell me what a patrol sergeant does?

8 A. A patrol sergeant is in charge of several deputies
9 and supervises them, gives them advice on their cases that
10 they receive, how to proceed with their cases, or whether
11 those cases need to be investigated further and sent to
12 criminal investigations for more investigation.

13 Q. So patrol deputies are the front line. They are
14 what we think of when we see deputies in marked Sheriff's
15 department vehicles, stopping speeders and doing the kind of
16 things that patrol deputies would do; is that right?

17 A. That's correct.

18 Q. Do you then wear a uniform and drive a vehicle
19 yourself now?

20 A. Yes, I do.

21 Q. Do you have a particular part of the county that
22 you are assigned to?

23 A. Yes, I do.

24 Q. Where is that?

25 A. I am assigned to the southern-eastern command

1 area, which encompasses Prescott Country Club, Dewey-Humbolt,
2 Mayer, Cordes Junction, Black Canyon City, and Crown King.

3 Q. So basically, your area of responsibility starts
4 at Prescott Country Club on State Route 69, and heads south
5 to the interstate and then down the interstate to the
6 Maricopa County line; is that right?

7 A. Yes.

8 Q. And then back west of I-17, up into the high
9 country, up to Crown King and places like that?

10 A. Yes.

11 Q. How long have you been assigned to this task?

12 A. I believe it is since April 23rd of '09.

13 Q. So in July of 2008, though, you were a detective
14 sergeant here in the Prescott area; is that right?

15 A. That's right.

16 Q. And then by April of the next year, you were out
17 of detective work and into supervising patrol deputies; is
18 that right?

19 A. That's correct.

20 Q. Had you ever been a patrol sergeant prior to April
21 of 2009?

22 A. Yes, I was very briefly. When I was first
23 promoted, I was sent to the Verde command area, and I was
24 there for about six months.

25 Q. So you were a patrol sergeant before you became a

1 detective sergeant; is that right?

2 A. Yes.

3 Q. Then the eleven years that you were in criminal
4 investigations, it was always as a sergeant; is that right?

5 A. No. Part of it was as a detective.

6 Q. You started as a detective?

7 A. That's correct.

8 Q. Then you became a detective sergeant. At what
9 point in your eleven years?

10 A. I was a detective for approximately seven to eight
11 years.

12 Q. Can you tell us how the criminal investigations
13 part of the Sheriff's office is organized, what the chain of
14 command is sort of top to bottom?

15 A. There are two sections. There is the Prescott
16 area section and the Verde Valley criminal investigation
17 section. Each section has a sergeant and its own
18 detectives. They are supervised by one lieutenant.

19 Q. In 2008, it was this gentleman here, Mr. Rhodes?

20 A. That's correct.

21 Q. He is now a captain, I understand?

22 A. Yes.

23 Q. But in July of 2008, he was lieutenant, then, in
24 charge of all criminal investigations; is that right?

25 A. That's right.

1 Q. You were the Prescott detective sergeant?

2 A. Yes.

3 Q. Who was the Verde detective sergeant?

4 A. Dan Winslow.

5 Q. And he was involved in this case, too?

6 A. Correct.

7 Q. And each of you sergeants, you and Sergeant

8 Winslow had a number of detectives that you were responsible
9 for, that answered directly to you; is that right?

10 A. That's correct.

11 Q. Above the lieutenant level, when you get out of
12 criminal investigations, what is the chain of command in the
13 Sheriff's office above that?

14 A. I believe it is the captain and then the
15 commander.

16 Q. And then the Sheriff ultimately, the elected
17 Sheriff?

18 A. Yes.

19 Q. Who was the commander then? You would have been
20 responsible to whom? Lieutenant Rhodes would have
21 answered -- let's put it this way, who was the captain in
22 between there? If you went from Lieutenant Rhodes up the
23 chain, who was the captain in July of 2008?

24 A. I believe it was Steve Francis.

25 Q. And above then Captain Francis would have been one

1 of the two commanders?

2 A. Right.

3 Q. There is one commander that basically is in charge
4 of the jail, detention services; correct?

5 A. Yes.

6 Q. There is another commander in charge of everything
7 else?

8 A. Yes.

9 Q. Who is the commander that would have been in
10 charge of criminal investigations in July of 2008?

11 A. I believe it was Scott Mascher.

12 Q. And he is involved in this case also; right?

13 A. Yes.

14 Q. And the commanders answer directly to the Sheriff?

15 A. Yes.

16 Q. And the Sheriff answers directly to the voters?

17 A. Yes.

18 Q. Let's go back, if we could, to the night of July
19 2nd, 2008. I think you told us that you were called out. Do
20 you remember where you were when you got the call?

21 A. Home.

22 Q. Do you remember who called you?

23 A. I believe I received a phone message from
24 Lieutenant Rhodes.

25 Q. And the message was that there was a possible

1 homicide at an address in Prescott, and you were asked to
2 respond; is that right?

3 A. Something to that effect, yes.

4 Q. And you did. Do you remember what time you got to
5 the Bridle Path scene?

6 A. Somewhere around 11:00, or between 11:00 and
7 midnight.

8 Q. On July 2nd still; is that right?

9 A. Yes.

10 Q. And you came in your own vehicle?

11 A. I had an assigned vehicle.

12 Q. You came by yourself. You didn't ride with anyone
13 else?

14 A. Yes.

15 Q. And you arrived on the scene, and see if you can
16 explain for us, please, the chain of command that was in
17 place at the time you arrived. What we have heard from other
18 witnesses, before you came, was that a welfare check was
19 requested and Deputy Matt Taintor responded a little before
20 9:00 p.m., discovered the body through the window, called for
21 backup. Shortly after that, two other deputies and two
22 sergeants, Sergeant Acton and Sergeant Howard, who are patrol
23 sergeants; right?

24 A. Right.

25 Q. In the Prescott side?

1 A. Right.

2 Q. They arrived on the scene, and the five of them
3 made entry into both the guesthouse and the main house, saw
4 what they saw, and called for additional backup, called in
5 criminal investigations, apparently?

6 A. Yes.

7 Q. Is that your understanding of how things happened?

8 A. Yes.

9 Q. I think we understand the chain of command when it
10 was just the five initial responders. I think Sergeant Acton
11 told us that she was taking responsibility at that point,
12 what decisions were being made were being made principally by
13 her. Is that your understanding?

14 A. Either her or Sergeant Howard. They both have the
15 same rank.

16 Q. Whatever work they did was before you arrived on
17 scene, or before anyone from criminal investigations arrived
18 on scene?

19 A. Right.

20 Q. When you arrived on scene, tell us what changes
21 then, if any, took place in the chain of command and the
22 responsibility for this investigation?

23 A. Well, it would have been my responsibility. I
24 would have taken control of the scene.

25 Q. And who else from criminal investigations came

1 either at the same time or shortly after you arrived?

2 A. Lieutenant Rhodes was also there.

3 Q. How about any detectives who were under your
4 supervision?

5 A. Eventually Detective Doug Brown showed up.

6 Q. For the jury, I don't know that he was ever
7 identified, in the video we saw Mr. DeMocker being
8 interviewed. Obviously, you were in that video, but there
9 was also another detective, a gentleman with short dark hair.
10 That is Doug Brown; correct?

11 A. That's correct.

12 Q. Doug Brown was one of the detectives assigned to
13 you, or was he assigned to the Verde side?

14 A. Assigned to the Prescott area.

15 Q. He was someone you supervised; is that right?

16 A. Yes.

17 Q. Did you call him in?

18 A. Yes.

19 Q. How about other detectives at that point? You
20 have Lieutenant Rhodes, your supervisor, you. Doug Brown
21 comes at some point; is that right?

22 A. Yes.

23 Q. Anyone else while you were there at Bridle Path?

24 A. I attempted to make some other phone calls and get
25 other detectives on scene. I only got voice mail messages at

1 the time. And I don't remember the sequence of events or who
2 arrived first, but eventually they did show up.

3 Q. We heard from the deputies and the sergeants that
4 they work shifts, that they were all on a particular shift.
5 Detectives and detective sergeants, to my understanding at
6 that time, didn't necessarily work those kinds of shifts;
7 correct?

8 A. They are usually day shifts.

9 Q. But then you are responsible for calls that come
10 in late at night; right?

11 A. Right.

12 Q. Even if you are at home?

13 A. Right.

14 Q. So when you were trying to call other detectives
15 to come in, it was now late at night. It was either close to
16 or approaching midnight of July 2nd, morning of July 3rd; is
17 that right?

18 A. Right.

19 Q. Is it uncommon in your experience that you were
20 having trouble connecting with your detectives at that time
21 of night?

22 A. Sometimes I do, yes.

23 Q. There is nothing unusual about the fact that you
24 couldn't immediately get every one of your detectives on the
25 phone?

1 A. Right.

2 Q. Do you know who you called?

3 A. I believe it was Doug Brown, then I called John
4 McDormett, and then I called Mike Poling. I went down the
5 list. And then eventually I got ahold of -- I called
6 Sergeant Winslow and started calling some of his --

7 Q. Detectives from the Verde side?

8 A. Correct.

9 Q. This was going to be a big case, and you needed
10 more people out there to supplement you and Lieutenant Rhodes
11 at that point; right?

12 A. Yes. But my initial thought was due to the fact
13 it was dark, I was planning to conduct most of my
14 investigation during the day.

15 Q. How long do you think you were there before
16 Detective Doug Brown showed up?

17 A. I was there 30 minutes, maybe so.

18 Q. And he came directly at your request; is that
19 right?

20 A. Yes.

21 Q. Now at some point our understanding is that
22 Detective Doug Brown became something called a case agent for
23 this case; is that right?

24 A. Yes.

25 Q. Tell me what the case agent is and does.

1 A. Well, he in charge of the investigation. He does
2 most of the work. He interviews, that type of work.

3 Q. And who made the assignment in this case?

4 A. I believe I did.

5 Q. And I would presume, then, that you had confidence
6 at that point that Detective Brown was capable of doing what
7 needed to be done in this particular case; correct?

8 A. Yes.

9 Q. To your knowledge, had Detective Brown ever been
10 the case agent in a murder case?

11 A. Not to my knowledge, no.

12 Q. How long had he been working under your
13 supervision on July 2nd of 2008?

14 A. I believe he had been working criminal
15 investigations for about a year, maybe year-and-a-half.

16 Q. Do you know what he had done with the Sheriff's
17 department before?

18 A. Before?

19 Q. Yes.

20 A. He was a patrol deputy.

21 Q. Which is a pretty typical path for people to
22 become detectives. Unless they have experience in some other
23 agency, they come out of the patrol ranks into criminal
24 investigations?

25 A. Yes.

1 Q. A lot of patrol deputies start out working in the
2 jail; correct?

3 A. I wouldn't say that.

4 Q. Some?

5 A. Some.

6 Q. And then some are volunteers?

7 A. Sure.

8 Q. Or reserve deputies, unpaid volunteers, and then
9 get on as a paid deputy; correct?

10 A. Sure.

11 Q. Was it just the luck of the draw with Detective
12 Brown that he was the first person you reached, so he became
13 the case agent, or was that a conscious decision that you
14 made, taking stock of what you had seen at this crime scene
15 up to that point?

16 A. He was one of the first ones that responded to my
17 phone calls.

18 Q. That was part of the decision making process is to
19 appoint him case agent; is that right?

20 A. Sure.

21 Q. Was it your intention, though, because of his
22 relative lack of experience as a case agent in homicide cases
23 and your considerable experience, that you would work closely
24 with him on this investigation?

25 A. Correct.

1 Q. And he would answer directly to you on a variety
2 of matters; correct?

3 A. Sure.

4 Q. In fact, that is what happened; isn't it?

5 A. Yes.

6 Q. At that any time there were important decisions to
7 be made as this investigation moved along, those decisions
8 were made jointly between you and Detective Brown; correct?

9 A. True.

10 Q. I assume there were some routine decisions that he
11 would make on his own that you would not necessarily know
12 about; correct?

13 A. No. I think he ran everything through -- to me.

14 Q. I assume there would have been decisions that you
15 would have made without necessarily communicating with him?

16 A. Yes.

17 Q. I assume there must have been some collaboration
18 between you and Lieutenant, now Captain Rhodes, as this
19 investigation started moving along; is that right?

20 A. Yes.

21 Q. At some point a few months into this
22 investigation, the early Fall of 2008, Detective Brown was
23 replaced as case agent; is that right?

24 A. True.

25 Q. Were you part of that decision?

1 A. Yes.

2 Q. What was the basis for that decision?

3 A. I believe the case needed more organization that
4 Detective Brown couldn't handle.

5 Q. What was it about the investigation at that point,
6 which would have been before Mr. DeMocker was arrested at the
7 end of October; correct?

8 A. True.

9 Q. What was it about the way the case was being
10 handled by Detective Brown that caused you to think that he
11 needed to be replaced?

12 A. Like I stated, I believe he needed more
13 organization with the case, and I thought that would be best
14 for the case if somebody else with more experience could
15 handle that.

16 Q. Are you saying Detective Brown lacked sufficient
17 organizational skills to handle the job of case agent in this
18 case as it unfolded?

19 A. To some degree, yes.

20 Q. How so?

21 A. Sometimes when I would ask him questions, he was
22 not able to provide those answers to me.

23 Q. That was a problem?

24 A. Yes.

25 Q. And did you talk with Detective Brown on a basis

1 of saying, if you are going to stay on as case agent, these
2 are certain things that I require you to do?

3 A. No.

4 Q. Were there ever any meetings or conferences inside
5 the Sheriff's office in which Detective Brown participated
6 with you about his performance or lack of performance at that
7 time?

8 A. No.

9 Q. The decision to replace Detective Brown, then, was
10 to bring in John McDormett. You mentioned his name here; is
11 that right?

12 A. Yes.

13 Q. And was part of the reason why Detective McDormett
14 was selected, his apparent greater experience as a case agent
15 in homicide cases?

16 A. Yes.

17 Q. He had worked, in fact, for another law
18 enforcement agency in Illinois before he came to the
19 Sheriff's department here; is that right?

20 A. True.

21 Q. Had you ever worked in a case supervising
22 Detective McDormett in which he was the case agent in a first
23 degree murder case in Yavapai County?

24 A. Yes.

25 Q. So you had some level of confidence, I assume, in

1 his abilities?

2 A. Yes.

3 Q. Do you know when that replacement took place?

4 A. I would just be guessing right now.

5 Q. Was it before Mr. DeMocker was arrested on October
6 23rd, 2008?

7 A. Yes.

8 Q. Was it in September of 2008?

9 A. I don't remember.

10 Q. Was Detective Brown kept involved in this case,
11 notwithstanding the fact that he had been replaced as case
12 agent?

13 A. Yes.

14 Q. So he just assumed the responsibilities of another
15 detective assigned to do particular tasks under the direction
16 of new case agent McDormett; is that right?

17 A. True.

18 Q. Then Detective McDormett remained case agent in
19 this case, apparently, through and including the time that
20 you left criminal investigations in April of 2009 and went
21 back into patrol work; is that right?

22 A. True.

23 Q. Do you know if he is the case agent today?

24 A. I don't know.

25 Q. Let's talk, if we could, about the early decision

1 making done at the scene. Let me see if I understand the
2 time frame.

3 You got to the crime scene -- if we
4 looked at the crime scene log, would that refresh your
5 recollection of when you arrived on scene?

6 A. Probably, yes.

7 Q. Do you have that in your notebook with you?

8 A. No, I don't.

9 Q. We will pull it out for you here in a minute, but
10 you think it was sometime between 10:00 p.m. and 11:00?

11 A. Somewhere around there, or maybe even later.

12 Q. When you arrive on the scene, can you give us a
13 picture of what you see when you drive up to this location?

14 A. There is several patrol units. There is Mr. Jim
15 Knapp's vehicle there. Mark Boan is with Mr. Knapp. I speak
16 with Candice -- or Sergeant Acton.

17 Q. I am just trying to get a visual here. What do
18 you see? You come up, there are patrol vehicles. Where are
19 they?

20 A. Parked outside the residence on the street.

21 Q. Let me show you a couple of photographs of the
22 front of the residence. Is this on, Phil?

23 Let me show you Exhibit 2318 here.

24 Do you recognize that as the front
25 entrance to the Bridle Path scene?

1 A. Yes.

2 Q. You can see there is a low wall on the left-hand
3 side, and then you can see a little piece of the
4 corresponding section on the right-hand side. So when you
5 say that the vehicles were parked out on the street, they
6 were parked about where the photographer for this particular
7 picture would be standing?

8 A. There is some sort of an easement or dirt area out
9 in front, and then there is the street. That is where they
10 were at.

11 Q. So Bridle Path in this area is a paved road, at
12 least a chip sealed road; right?

13 A. Yes.

14 Q. Between the edge of the chip seal and this wall is
15 some kind of dirt or gravel area; is that right?

16 A. Yes.

17 Q. The vehicles were parked along there. Did they
18 have their overhead lights going when you got there?

19 A. Not that I can remember.

20 Q. Let me show you 2319.

21 You see the crime scene tape here, which
22 makes everything in the picture somehow yellow. The grass
23 wasn't yellow when you got there; was it?

24 A. No.

25 Q. But the crime scene tape was apparently?

1 A. Yes.

2 Q. Was there crime scene tape up when you arrived?

3 A. I don't remember.

4 Q. Do you remember how many patrol vehicles you saw?

5 A. At least two.

6 Q. And you said you saw Mr. Jim Knapp's vehicle. You
7 didn't know Mr. Knapp before that happened; right?

8 A. No.

9 Q. You just saw a civilian vehicle?

10 A. Yes.

11 Q. Where was it?

12 A. It was parked outside.

13 Q. Outside the entrance?

14 A. Yes.

15 Q. Not up on the property; is that right?

16 A. No.

17 Q. Let me show you 2317 in evidence.

18 You recognize this, as you can see, the
19 main house on Bridle Path on the left and guesthouse on the
20 right; correct?

21 A. Yes.

22 Q. The archway and kind of a connecting wall between
23 the guesthouse and main house?

24 A. Yes.

25 Q. You see what appear to be a number of automobile

1 tire impressions in the dirt, some going straight ahead and
2 some curving off to the left; is that right?

3 A. Right.

4 Q. If I told you this picture was taken on July 3rd,
5 2318, you were back out at the scene that day; is that right?

6 A. Yes.

7 Q. That is the way it looked that day; correct?

8 A. I believe so, yes.

9 Q. Do you have any idea whose vehicle impressions
10 those are?

11 A. No, I don't.

12 Q. Tell me what was done. You and Lieutenant Rhodes
13 were the first people from criminal investigations on the
14 scene; is that right?

15 A. Yes.

16 Q. The point you arrived there -- the point you
17 arrived there, first responders had been there for some
18 period of time, and Mr. Knapp had arrived and some decisions
19 had been made. Deputy Boan is with Knapp. Sergeant Acton is
20 there talking to you. There are other deputies around. They
21 pulled back out of the scene at that point waiting for CI to
22 is arrive; is that right?

23 A. Right.

24 Q. Was Lieutenant Rhodes there when you got there?

25 A. I believe so, yes.

1 Q. So I assume you talked with him pretty quickly?

2 A. Yes.

3 Q. One of the things that was done early on was the
4 need to get more detectives rolled out to the scene besides
5 you; correct?

6 A. Yes.

7 Q. And so that is one of the things you did. I
8 assume you did that from your phone or your radio in your
9 vehicle there; is that right?

10 A. My phone.

11 Q. You had a list that you went down trying to find
12 people, and apparently Detective Brown was the lucky winner?

13 A. Yes.

14 Q. Tell me what you did, then, if anything, to try
15 and preserve the integrity of this area that we see in 2316,
16 which is the circular driveway, and then the driveway up in
17 the left here that goes to the garage. Tell me what you were
18 doing to keep people off that.

19 A. I believe some of our vehicles were parked in the
20 front here, and there is other vehicles on the other side. I
21 had Sergeant Acton go to the other side of Glenshandra and
22 secure that scene.

23 Q. I am talking right now just about this area here;
24 the circular driveway, and then this driveway that goes up to
25 the garage here. We have seen automobile tire impressions

1 there. I would assume there were shoe print impressions all
2 over that; correct?

3 A. I don't remember.

4 Q. In the period of time that you were on scene as
5 the detective sergeant in charge of this, did you or
6 Lieutenant, now Captain Rhodes, direct anybody to tape off or
7 keep people -- people being law enforcement -- off of that
8 area until you could take a look at the impression evidence,
9 the tire tracks and shoe prints in the front of this scene?

10 A. At some point I must have directed somebody to put
11 that crime scene tape up.

12 Q. How about conducting an investigation, taking
13 photographs, casting of these impressions, doing anything to
14 try and understand this impression evidence in the dirt?
15 When I say impression evidence, I mean the obvious tire
16 impressions and the shoe prints that you think you saw there.

17 A. Are we talking about the first day I was there or
18 the second day?

19 Q. Let's talk about the first day, the night you get
20 there. You come up and there is a diseased body in this
21 residence, and no suspect in sight; right?

22 A. Right.

23 Q. You would assume, right, that whoever did this is
24 likely to have gotten into the house to do it; correct? That
25 is your impression that this woman was murdered inside the

1 house; correct?

2 A. Sure.

3 Q. That is the information you had?

4 A. Sure.

5 Q. Wouldn't it be important right at the top of this
6 investigation to try and be careful not to disturb evidence
7 that would show who and how the assailant got into the house?
8 Did they drive up? Did they walk up? Did they drive up,
9 park, walk up? All of that information would be very
10 important; correct?

11 A. True, and at some point we did put that crime
12 scene tape up.

13 Q. That was the sum total of the efforts to protect
14 and preserve the impression evidence in the front of the
15 house; is that right?

16 A. True.

17 Q. There were never any photographs taken, other than
18 these photographs that we see from a distance of -- let me
19 show you 2318 again -- these photographs that we see from a
20 distance. There were never any attempts to measure or
21 preserve or otherwise investigate these obvious tire
22 impressions that go from the street right into the scene;
23 correct?

24 A. Not to my knowledge, no.

25 Q. And how about the -- we have photographs of the

1 tire prints, but obviously, you can't tell anything other
2 than they appear to be automobile tire impressions; right?
3 You can't see tread design on these photos, can you?

4 A. True.

5 Q. There are no other photos anywhere in the world
6 that you know of that actually in a forensic way try to
7 identify and preserve these tire impressions; correct?

8 A. True.

9 Q. You said you thought there were shoe print
10 impressions. I may say from time to time "footprints." We
11 are talking about the same thing. Impressions in the dirt
12 made by people walking; correct?

13 A. I don't know that.

14 Q. You don't know what?

15 A. If there were shoe impressions there.

16 Q. You don't know that?

17 A. No, I don't know that.

18 Q. Did you look for any?

19 A. I do remember walking past this grass area.

20 Everybody had a path -- the way the first responders entered,
21 we all used that path, and it was along the grass area back
22 here, to avoid walking in this area, but I don't remember
23 seeing any footprints there.

24 Q. Now, we are talking about, just so that we
25 understand for the record here, this is 2318. The path that

1 you are talking about basically followed these automobile
2 tire impressions up to this archway; correct?

3 A. Not on the tracks, off to the side.

4 Q. Staying off the tracks. Okay.

5 But we can see here in 2317, that these
6 tire impressions -- some set of tire impressions seem to
7 swing off to the left. Can you see those?

8 A. Somewhat, yes.

9 Q. Some go straight ahead towards the arch, and it
10 looks like there is multiple impressions. They cross over
11 each other down in this area; correct?

12 A. Yes.

13 Q. We can see faintly here multiple sets of
14 impressions heading off towards the front door of the house;
15 correct?

16 A. The driveway goes all the way around.

17 Q. Right. Let's look at that picture. 2316.

18 You can see how the driveway goes around
19 and makes a loop and comes back here. There is another
20 driveway, as I said before, goes down to the garage. We will
21 take a floor plan here in a second to orient you.

22 Tell me about the investigation that you
23 or anyone else did in your direction of the area over here
24 towards the front door, or around this way, or down in this
25 area here in the front, or this trail, looking for either

1 automobile tire impressions or shoe print impressions.

2 A. I don't remember assigning anybody to do that.

3 Q. If I told that you that in all of the photographs
4 that are here in this courtroom, there is not a single
5 photograph that I have seen of any shoe print evidence in
6 this area, would you have reason to disagree with that?

7 A. No.

8 Q. You have never seen such a photograph; is that
9 right?

10 A. Not that I remember, no.

11 Q. Okay. Now, I understand it was dark when you got
12 there, and you asked me earlier whether we were talking about
13 your investigation the night of the scene or the next day.
14 When you went back the next day, the time that these
15 photographs were taken -- this is daytime the next day,
16 July 3. Was an investigation launched into tire print or
17 shoe print evidence, impression evidence in the ground in
18 this area in the driveway area in front of the house?

19 A. No. I was pre-occupied with other things at the
20 moment.

21 Q. So the answer is no?

22 A. Right.

23 Q. To your knowledge, was any -- in the time you were
24 working on this case from July 2, 2008, until sometime in
25 2009, was there ever an investigation done by the Yavapai

1 County Sheriff's office or any other agency of impression
2 evidence in this driveway area?

3 A. I might have assigned somebody, but I don't
4 remember who that was.

5 Q. Do you remember seeing a single picture taken by a
6 detective under your supervision of any shoe prints that were
7 alleged to have been located in this driveway area?

8 A. Not to my knowledge, no.

9 Q. Now, so my understanding of the sequence of
10 events, Sergeant, is that you're there at the scene, you are
11 talking to Lieutenant Rhodes. Some point pretty early on you
12 go inside the house; is that right?

13 A. That night.

14 Q. How did you get into the house?

15 A. Sergeant Acton took us the direction that she
16 walked in.

17 Q. Just to circle back here for a second. Let me
18 show you Exhibit 1613 in evidence here. This is the crime
19 scene log here.

20 Do you see your name on this first page?

21 Now, I understand the first page at the top were the first
22 responders, and then we are into the next morning; correct?

23 Do you see that? I am going to zoom in a little bit. Do you
24 see that starts at 7:30 in the morning, 7:15, 7:30 on July
25 3rd?

1 A. Right.

2 Q. Okay. Here's the second page of 1613. We see
3 you, C-12.

4 A. Yes.

5 Q. This is your entry here; is that right?

6 A. There is another one up on top.

7 Q. Let's zoom in on that one. First it said, 10:19
8 and it is crossed out. Is 1019 also a coincidence, a police
9 radio call?

10 A. Yes.

11 Q. So you don't know whether that 1019 is a time or
12 radio call; right?

13 A. Right above it it says 2219, so I am assuming that
14 they wrote civilian time and changed it to military time.

15 Q. 2219 is the same as 10:19 p.m. civilian time; is
16 that right?

17 A. Correct.

18 Q. Is that when you entered the scene?

19 A. I believe so.

20 Q. We have heard a little bit of testimony about
21 these crime scene logs, and I assume you have a great deal of
22 familiarity with them; is that right?

23 A. Yes.

24 Q. Someone is appointed, someone being a law
25 enforcement officer, to have a clipboard and a bunch of these

1 blank sheets, and to keep a log of people, whether they are
2 law enforcement, or as we can see here our friend Captain
3 Ness, who is a fireman, the paramedics and people that came
4 with him. Everybody that goes into the scene is logged in
5 and out; right?

6 A. Right.

7 Q. And where was this particular -- if you remember,
8 when you arrived and entered at 2219, 10:19 p.m., where was
9 the person running this clipboard located?

10 A. I don't remember.

11 Q. Is it possible the person was out at the entrance
12 to the property where the crime scene tape was?

13 A. They were outside that crime scene tape.

14 Q. They wouldn't have been up by the door to the
15 house?

16 A. No.

17 Q. Is that a fair approximation, 10:19 p.m., of the
18 time that you arrived and at least approached the person that
19 had the clipboard and was doing this work?

20 A. True.

21 Q. Now at that point it shows you leaving at 10:32.
22 2232; am I right?

23 A. Yes.

24 Q. Okay. At that point you go in and out of the
25 crime scene, and you are only there 13 minutes; correct?

1 A. True.

2 Q. What did you do in that 13-minute period of time?

3 A. Don't know. Probably went to make some phone
4 calls.

5 Q. Here you are at three minutes later at 2235 going
6 into the crime scene for a minute. What did you do then?

7 A. I think the person that was doing this was logging
8 me in and out every time I went in and out, instead of just
9 logging me in. I probably had to go back and get some
10 equipment; flashlight, gloves, whatever else I thought I
11 needed from my vehicle.

12 Q. Here you are two minutes later down here going in,
13 and then you are there a brief period of time, and you go out
14 at 10:54, so now you have been in and out -- this is the
15 third time; right?

16 A. Yes.

17 Q. That is not the way you are supposed to do it; is
18 it?

19 A. No.

20 Q. Okay. Unnecessary work. Here you are again at
21 12:33 in the morning for four minutes going back into the
22 scene; is that right?

23 A. True.

24 Q. Here is Mr. Knapp for a period of time. And then
25 you go over to the last page, and no Sergeant Huante. Okay.

1 That is the last -- we are now at 5:30 in the morning.

2 So can we assume, Sergeant, that you left
3 the scene for good that night, the scene being Bridle Path,
4 at 12:37 a.m.?

5 A. That's possible.

6 Q. Now in that period of time -- so you get on scene
7 and you are there for now over two hours. You get there at
8 10:19 and you are there until 12:37. It looks like you are
9 in and out of the house, or at least the property, a few
10 times. You are out by your vehicle a few times.

11 At some point while you are there, you go
12 into the house, and we can see that looks like -- or can you
13 see from Exhibit 1613 when you actually went into the house?
14 Which one of the entries corresponds with you going into the
15 house?

16 A. I couldn't tell you.

17 Q. Do you see right here on 1613, right above this
18 entry of 2238, which is actually the longest time that you
19 are in the house, Detective Doug Brown is signed in at the
20 same time? Goes in with you and comes out with you. Do you
21 see that?

22 A. Yes.

23 Q. Is that your recollection?

24 A. I don't remember that.

25 Q. That looks like the first time Detective Brown is

1 on scene. I don't see any entry for him before 10:38 at
2 night. Would it be reasonable to assume that you got there,
3 and he was there less than 20 minutes after you got there.
4 If you got there at 10:19, he is there at 10:38, and the two
5 of you go into the house?

6 A. That is possible.

7 Q. Is that the first thing you remember doing with
8 Detective Brown, taking him in the house and taking him down
9 and showing him the room where the body was?

10 A. I believe so.

11 Q. Do you remember being in the house and in the
12 vicinity of the room where the body was located more than one
13 time that night?

14 A. Yes.

15 Q. So some of these other trips in, even though they
16 were briefer, may have been times when you went in, went down
17 and looked at the room again; is that right?

18 A. Yes.

19 Q. Did you go inside the room?

20 A. Yes, I did. Not inside the room. I was -- there
21 is a little hallway. There was some sort of plastic
22 containers, and then I went around the outside, and I looked
23 at the scene from the other side.

24 Q. Okay. Let's take a look at this, and try and get
25 as close into this area here. This is Exhibit 613; is that

1 right? 631. I will call it 613 for the rest of the trial.
2 It is really 631.

3 Here, this is the floor plan that we have
4 looked at a number of times. And I assume that -- you can
5 see up here at the top, the front door is right here;
6 correct?

7 A. Yes.

8 Q. Rather than looking at my homemade manicure
9 anymore, maybe we could use the -- reveal that I chew my
10 fingernails.

11 Can you see here, this is the front door
12 area at the top of this exhibit; correct?

13 A. Yes.

14 Q. And the jury has asked us to always indicate which
15 direction north is. North is in this direction here,
16 generally; correct?

17 A. I believe so, yes.

18 Q. So if we were going to do yet another north up
19 diagram, it would really be this way, but unfortunately the
20 writing is not north up. This is now north up. This is
21 north in this direction now; correct?

22 A. Okay.

23 Q. Do you agree?

24 A. I believe so, yes.

25 Q. I will show you other maps, if you have some

1 confusion here. Do you need anything else to help you agree
2 that that is north?

3 A. No.

4 Q. Now, you would have come in from the front. You
5 would have parked out here, out here on the road. You would
6 have come up, and you would have come into this door through
7 this doorway into the area that was the dining room and
8 kitchen area; correct?

9 A. Yes.

10 Q. And eventually, you would have gone down this
11 hallway and towards the room where the body was located. And
12 you can't really see it very well here, but the body was
13 located just past this ladder; correct?

14 A. Yes.

15 Q. I think these are the plastic tubs or totes you
16 are talking about that you remember seeing at the end of the
17 hall?

18 A. Yes.

19 Q. This orients you to where we are doing this now.
20 If I turn this 90 degrees so we could read the writing, would
21 that be helpful?

22 A. Yes.

23 Q. Who went with you when you went into the room the
24 first time, or went to the room?

25 A. I believe it was Lieutenant Rhodes and Sergeant

1 Acton.

2 Q. Okay. Was the place still dark?

3 A. Yes.

4 Q. So this was all being done by flashlight?

5 A. Yes.

6 Q. Were the EMTs there when you got there?

7 A. No.

8 Q. It was the five first responders, Sergeant Howard,
9 Sergeant Acton, and the three deputies including Deputy
10 Taintor; right?

11 A. Right.

12 Q. You and Lieutenant Rhodes. Now we are up to seven
13 people; right?

14 A. Yes.

15 Q. You went down and looked in here, and you saw the
16 body, and Sergeant Acton gave you a briefing of what they had
17 seen?

18 A. Yes.

19 Q. Was it at that point when there was a discussion
20 about how the assailant might have entered this home to
21 commit this crime?

22 A. No.

23 Q. There is a doorway here that goes to the outside;
24 correct?

25 A. Yes.

1 Q. Okay. This is a window down here on this end;
2 correct?

3 A. Yes.

4 Q. When you arrived on scene, what was the condition
5 of this door? Was it locked or unlocked?

6 A. I couldn't tell you.

7 Q. Did you ever learn whether the door was unlocked
8 or locked when Deputy Taintor rolled up?

9 A. I don't know that.

10 Q. It was never determined?

11 A. Not to me.

12 Q. Wouldn't that be terribly important at this stage
13 of the investigation to know if a door just a few feet from a
14 dead body was open or closed?

15 A. That night I was concerned about whether this was
16 an accident or not. And later I determined, when we went
17 around, we found the blood drop outside that door --

18 Q. Right out here. Right.

19 A. -- then we started asking questions about the
20 door.

21 Q. And did you get an answer as to whether this door
22 from the room where the body was located to the outside was
23 locked or unlocked when Deputy Taintor arrived on scene?

24 A. I don't remember what the answer was.

25 Q. We will come back to that.

1 So you looked in. Sergeant Acton gave
2 you this briefing. At that point you are thinking this might
3 be an accident; correct?

4 A. At some point, yes.

5 Q. That this poor woman may have fallen off this
6 ladder and hit her head on this desk here, because you could
7 see just from standing here, you could see that there was
8 blood all over the corner of this desk; right?

9 A. Yes.

10 Q. That was the first thought; is that right?

11 A. Right.

12 Q. And you said you didn't go into the room at that
13 time; is that right?

14 A. Not entirely. I kind of inched my way through by
15 the ladder.

16 Q. When you were standing out here at the doorway, it
17 was you, Dave Rhodes and Candice Acton were all standing out
18 here with flashlights; correct?

19 A. Yes.

20 Q. And you were looking around. Did you realize you
21 were standing on blood spatter?

22 A. I saw blood spatter right there where you are
23 pointing at and on those containers.

24 Q. There was blood splatter on the carpet and the
25 floor. It transitions. This room is carpeted; correct?

1 A. Yes.

2 Q. As it transitions at this threshold, this hallway
3 is Saltillo tile, big Mexican tile up and down that; correct?

4 A. Right.

5 Q. You could see, eventually, there was blood spatter
6 on the carpet, on these walls here, these short walls, on
7 these plastic totes, and actually on the floor down here;
8 right?

9 A. I don't remember seeing the one on the floor. I
10 do remember seeing the ones on the containers and the walls.

11 Q. What about possible bloody shoe print impressions
12 in this area here between the carpet, the tile transition and
13 the ladder? Do you remember looking down and having anybody
14 point out to you possible bloody shoe print impressions
15 right in that area?

16 A. I don't remember any.

17 Q. Tell me again how far into the room you went?

18 A. Possibly where the ladder is at. Somewhere around
19 there. A little higher. Somewhere around there.

20 Q. You stepped into the room. Did you duck under the
21 ladder?

22 A. No. I went through there.

23 Q. Okay. Why don't I give you -- if you want to step
24 down -- I know it is hard to see from that angle -- if you
25 want to step down and try and show me where you went.

1 A. It was somewhere around here.

2 Q. What you are showing us with the laser pointer is
3 you got inside the doorway, and you were off to your right
4 just a little bit; is that right?

5 A. Yes.

6 Q. And you went in there so you could get a closer
7 look at the body?

8 A. Yes.

9 Q. And you could see injuries, I am sure. We have
10 seen terrible pictures. You could see injuries to this
11 woman's head; correct?

12 A. Yes.

13 Q. They were visible even from where you were
14 standing; correct?

15 A. Yes.

16 Q. You could see there was a tremendous amount of
17 blood all over that room; correct?

18 A. Yes.

19 Q. There was blood on the desk and blood near the
20 body; correct?

21 A. Yes.

22 Q. It was a pretty terrible scene?

23 A. Yes.

24 Q. At one point Detective Brown described it as
25 looking like a tornado had hit that room; correct?

1 A. I believe so, yes.

2 Q. In this room you could see -- of course, we have
3 this ladder that we are going to talk about. This ladder was
4 across the doorway. So when you went through the doorway,
5 the base of the ladder was to your right, and it went up, and
6 the top of it was resting on the top of the door to this
7 room; correct? Do you remember that?

8 A. I am not sure if it was on top of the door. I
9 thought it was resting on a wall.

10 Q. We will get the screen up and look at some
11 pictures here in a bit about that.

12 But the door to this room was open. The
13 door to this room swung to the left. It swung into the room
14 to the left; correct?

15 A. Yes.

16 Q. So in some way it was either pinned to the wall or
17 obstructed by this ladder. You couldn't reach out and close
18 that door because the ladder was in the way; correct?

19 A. I don't remember trying to do that.

20 Q. The ladder was at some angle. The bottom of the
21 ladder is down here, and the ladder goes from your right up
22 to your left?

23 A. Yes.

24 Q. Ms. Kennedy was on the floor in this area here; is
25 that right?

1 A. Yes.

2 Q. This is a desk that you told us was covered with
3 blood; is that right?

4 A. Yes.

5 Q. This was a desk chair; correct?

6 A. Right.

7 Q. There was another chair that was over here. I
8 don't know why it is drawn this way, but you can see this is
9 a recliner. Maybe this program didn't have another icon for
10 recliner. That was a white leather or leather-looking easy
11 chair; correct?

12 A. Yes.

13 Q. Then we have two bookshelves that are drawn here.
14 Those bookshelves were knocked over; correct? One into the
15 other; correct?

16 A. I believe so, yes.

17 Q. You later had a better chance to look at them, I
18 assume; right?

19 A. Yes.

20 Q. This corner of this bookshelf actually made a
21 little gouge into this wall. Do you remember seeing that?

22 A. I don't remember that.

23 Q. This bookshelf, the first one, apparently struck
24 this other bookshelf so forcefully that the top shelf of this
25 was ripped off, lying into this bookshelf. Do you remember

1 seeing that?

2 A. I don't remember that.

3 Q. We will look at some pictures of that in a minute.

4 Over here, to orient us in this room, this shows some
5 miscellaneous boxes. There were boxes and clothes and papers
6 located in this area in front of this open alcove; correct?

7 A. Yes.

8 Q. Which was some sort of a closet; right?

9 A. Right.

10 Q. Up above here, if you are standing in the room
11 looking at it, up above this was a loft. It had a railing
12 along this front edge; correct?

13 A. Right.

14 Q. You can see down here in this area, there were a
15 couple of hooks on the edge of that that appeared to be
16 connected with this ladder. So this ladder had hooks that
17 would loop over these objects here, so that that ladder could
18 be used to get up into this loft. Is that what you came to
19 understand?

20 A. I believe so, yes.

21 Q. It is true; isn't it, Detective, that neither you
22 nor any of the other people that investigated this case know
23 for certain where this ladder was just before it came to be
24 in this position where you found it?

25 A. Right. I don't know.

1 Q. You don't know whether it was down here?

2 A. I don't even know if it was in the room.

3 Q. There was some evidence that it was perhaps used
4 by the family out in this hallway to get to a loft that is
5 actually up here; correct? As you walk down this hallway,
6 there is a loft area up above here?

7 A. Right.

8 Q. Which was not immediately apparent in a dark room?
9 It was not easy to see as you were walking down this hallway;
10 correct?

11 A. Right.

12 Q. It didn't have a railing on it, for example?

13 A. No.

14 Q. It was just an open space up above?

15 A. Yes.

16 Q. The ladder could have been leaning up anywhere in
17 this room, if it was in this room before it came to be in
18 this position; correct?

19 A. True.

20 Q. We will just never know?

21 A. No.

22 Q. There is no other evidence that would indicate
23 where this ladder was before it wound up in this position;
24 correct?

25 A. Right.

1 Q. Now, let's try and look at this residence a little
2 bit to orient ourselves. We have had some questions from the
3 folks in the jury about where other things are.

4 So that we understand what we are talking
5 about here, here is Exhibit 2341, which is a Google map of
6 the Williamson Valley area. We have seen other maps that
7 show how you get out to this area. Williamson Valley, when
8 it gets out in this general area here, four or five miles out
9 from Iron Springs Road, it generally runs north-south. It
10 makes some changes, but more or less runs north-south;
11 correct?

12 A. True.

13 Q. We see the area. Here is Bridle Path here. So if
14 you come north on Williamson Valley, you turn right on Bridle
15 Path, and it proceeds up, and eventually it gets up to this
16 corner here, and the scene we are talking about is right up
17 in this area here; correct?

18 A. Yes.

19 Q. And then this map goes out. Here is Glenshandra
20 we talked about so much. That is north of the Bridle Path
21 entrance. That is a road that goes in and dead ends at a
22 fence and actually continues on south and runs behind these
23 houses on Bridle Path; correct?

24 A. Yes.

25 Q. And at the end of Glenshandra is the gate we have

1 talked so much about?

2 A. Yes.

3 Q. Going further out, you come to this area out here.
4 You can see the names of these -- I don't know who was in
5 charge of naming these streets but everything is oak. There
6 is Willow Oak, Post Oak, Mountain Oak, Live Oak, Valley Oak,
7 Granite Oak. This is a subdivision called Granite Oaks;
8 correct?

9 A. Yes.

10 Q. There is another part of Granite Oaks actually
11 here behind Glenshandra that is called Royal Oaks. Were you
12 aware there were two different subdivisions?

13 A. No, not really.

14 Q. Granite Oaks goes quite a ways. It is part of the
15 old Bard Ranch; isn't it?

16 A. I don't know.

17 Q. It is part of the Deep Well Ranch.

18 A. Okay.

19 Q. Here is Bard Ranch Road. Jurors have asked about
20 a trailhead called the Williamson Valley trailhead. Is the
21 location of Williamson Valley trailhead on this map, on this
22 exhibit?

23 A. I don't see it there.

24 Q. It is further north?

25 A. That is possible, yes.

1 Q. If you keep on going out Williamson Valley Road,
2 it is out here someplace?

3 A. I believe so, yes.

4 Q. Let's describe that trailhead. You talked about
5 it on Friday and yesterday a little bit. But there is a
6 little firehouse there; correct?

7 A. Yes.

8 Q. A single bay firehouse. There is a big dirt
9 parking area for cars and for horse trailers; correct?

10 A. Yes.

11 Q. It is an organized trailhead. It has got a sign.
12 It has got a pit toilet. It has got trash containers;
13 correct?

14 A. Yes.

15 Q. It is an official trailhead?

16 A. Yes.

17 Q. It has a big sign that says Williamson Valley
18 trailhead?

19 A. Yes.

20 Q. From that trailhead, there are a number of trails
21 that have three digit numbers assigned to them by the forest
22 service that all intersect at that trailhead; correct?

23 A. Yes.

24 Q. One of them is 347. Let me see if I could pull
25 this up. If I could get you to step down. If you could step

1 down here. We are going to try to put you in a place where
2 you are not standing in front of one of our jurors here. See
3 if we can get this exhibit here. Let's see.

4 Can those of you that can't see this
5 raise your hands for me.

6 I see no hands, Your Honor.

7 JUROR NO. 6: This is in the way.

8 MR. SEARS: Any better?

9 This is a similar map here. Let me get
10 around behind you here. Now, we can see Williamson Valley
11 Road going up there, and we can see Bridle Path here.

12 Do we have a pointer, Phil?

13 We are going to have the same problem
14 here about the scope of this. Williamson Valley Road heading
15 north. This is a north up map that the jury always wants to
16 see. Here is Bridle Path coming down here. Here is
17 Glenshandra.

18 Q. And we go out and we run out of map before we get
19 out to the trailhead; is that right?

20 A. True.

21 Q. On this map we can see -- this shows Trail 309
22 that we have heard so much about, and Trail 347. Trail 347
23 heads back, and it wanders back, and it comes up and there is
24 a piece of it that starts up at the Williamson Valley
25 trailhead; right?

1 A. Yes.

2 Q. One of the things you were talking to us about was
3 the fact that you had done a ride on a day off, apparently,
4 before this ever happened, where you went to this Williamson
5 Valley trailhead up here; right?

6 A. Yes.

7 Q. You parked with all the other people. And you got
8 on Trail 347 and started heading generally south, and
9 eventually caught up with Trail 347 where it intersects down
10 here with 309 and keep on heading out toward Granite Basin
11 Lake, which would be down on the third floor, if this map
12 went through the floor; right?

13 A. I started at the Williamson Valley trailhead, and
14 I headed in a south direction, southwestern, and I ended at
15 the bottom of Granite Basin Mountain.

16 Q. Granite Mountain?

17 A. Yes.

18 Q. There is a trail. Interestingly enough, there is
19 a trail here, and you can see it splits off. There is a gate
20 way up here and a fence, and you have two options when you go
21 through that gate. You can take 347, which is kind of the
22 high road, which goes up and makes a loop and goes over
23 towards Granite Basin Lake, and where you showed us on the
24 video where you came to the campground with the gravel road;
25 correct?

1 A. Right.

2 Q. That is this trail. There is another loop --
3 Trail 345, I think it is -- that stays down in Mint Wash,
4 because Mint Wash runs along the Granite Mountain side here.
5 I am standing where Granite Mountain is; right?

6 A. Yes.

7 Q. There is a trail that runs along Mint Wash, which
8 follows the base of Granite Mountain. Mint Wash, there is a
9 dam there, and behind the dam is Granite Basin Lake?

10 A. That is the route I took.

11 Q. It is actually a loop. These trails connect. 347
12 goes down here. And one of the places that you stopped to
13 check your map, interesting enough, is where the trail takes
14 off. Instead of going straight in your video, if you turned
15 right, you would have dropped down into that Mint Wash area.
16 Did you know that?

17 A. Possibly, yes.

18 Q. So that is where you were.

19 The Williamson Valley trailhead is way up
20 here off this map to the north; right?

21 A. Yes.

22 Q. Mile, two miles?

23 A. Possibly, yes.

24 Q. We may have some photographs later that will show
25 us that. If you would take your seat again, thanks.

1 Now let's look at 2339. We looked at
2 this a number of times. And do you recognize this as the end
3 of Bridle Path? And have I stolen the -- you have to pat me
4 down when we leave here. Here it is.

5 You recognize this is Bridle Path, and
6 here is that 90-degree turn. Okay. And you see this is
7 Carol Kennedy's house, and this is the guesthouse where
8 Mr. Knapp lived; correct?

9 A. Yes.

10 Q. Here is the fence line that runs down here through
11 the trees; correct?

12 A. Yes.

13 Q. This is the neighbor's house, Mr. Drake?

14 A. Yes.

15 Q. Up here you can see, just very faintly, you can
16 see this is kind of the top end of the Kennedy property.
17 This is the barn. This is that walled garden; is that right?

18 A. Yes.

19 Q. There is actually a trail that goes through and
20 there is a gate; isn't there, right up in this corner that
21 goes out into the open land?

22 A. I believe so, yes.

23 Q. This area all up here -- we will look at some
24 larger photos -- but this is thousands and thousands of acres
25 of open land known primarily as the Deep Well Ranch; right?

1 A. Yes.

2 Q. It runs east all the way over to Highway 89?

3 A. I believe so, yes.

4 Q. It runs north up to the Outer Loop Road that goes
5 between Williamson Valley and Highway 89?

6 A. Yes.

7 Q. It is a combination of deeded land that belonged
8 to the James family, and state land; correct, checkerboarded
9 sections of land?

10 A. I believe so.

11 Q. It is perhaps close to 10,000 acres. Did you know
12 that?

13 A. No. I didn't know that.

14 Q. It is a very, very large area this close in
15 without any development on it; right?

16 A. Yes.

17 Q. The only structures on it are way over on the
18 Highway 89 side, the ranch house and related properties.
19 There are no other homes on this open land; are there?

20 A. Not that I know of.

21 Q. There are no paved roads on this open land; are
22 there?

23 A. I don't think so.

24 Q. However, there are lots of points of access, other
25 than these couple of gates here. This gate at the corner of

1 the Kennedy property and the Glenshandra gate. There are
2 lots of other ways to get onto the open land; correct?

3 A. I don't know that.

4 Q. You didn't investigate that?

5 A. I didn't. I stayed in this area here.

6 Q. We will talk about that.

7 Now, let's look at 2338. This is a
8 tighter shot of what we were just looking at here. Same
9 location. There's Carol Kennedy's house. This is the
10 garage; correct?

11 A. Yes.

12 Q. Now the garage is little unusual. It appears to
13 have been built after the main house, because you can't get
14 into the garage from the house; right? You have to go
15 outside a door on this north side, walk down a few steps into
16 the garage; correct?

17 A. Yes.

18 Q. And this is the overhead garage door on this end;
19 correct?

20 A. Right.

21 Q. In this area is a little courtyard area. Here is
22 the archway we saw in the earlier photos; right?

23 A. Right.

24 Q. Here is the low wall. Here is the opening here.
25 Here is that circular driveway; correct?

1 A. Right.

2 Q. Here is the driveway that goes around up to the
3 garage?

4 A. Right.

5 Q. This is the guesthouse, and the guesthouse has a
6 garage and an overhead door at this end?

7 A. Yes.

8 Q. It has a living apartment on this end of it;
9 right? The east end of this structure is a living area;
10 correct?

11 A. Right.

12 Q. This is a little patio area, concrete patio area
13 for the guesthouse; correct?

14 A. Right.

15 Q. That is where Mr. Knapp lived?

16 A. Yes.

17 Q. How far, in your opinion, is the guesthouse from
18 the main house?

19 A. I would be estimating, maybe 30 feet, 40 feet.

20 Q. There are windows -- we will look at a lot of
21 pictures in a bit, but there are windows all along the side
22 of the main house, windows and doors; correct?

23 A. Yes.

24 Q. Carol Kennedy's bedroom was in this corner here?

25 A. I believe so, yes.

1 Q. It had a glass door -- a door to the outside that
2 was mostly glass; correct?

3 A. Yes.

4 Q. There were windows on this side of the guesthouse;
5 correct?

6 A. I can't remember if there were.

7 Q. We will take a look at some pictures to see if we
8 can help you remember.

9 Do you remember any window coverings?
10 Any blinds, shades, mini blinds, drapes, anything on any of
11 the windows on the main house?

12 A. I think there were some. I don't remember which
13 ones.

14 Q. For example, in Miss Kennedy's bedroom. When you
15 got there that night or when you came back the next day, did
16 you see any indication that the windows and doors into her
17 bedroom in this corner had some sort of window covering that
18 would afford her privacy?

19 A. I don't remember.

20 Q. Do you remember on the back side there was a
21 covered porch, a concrete slab that ran on the east side of
22 the main house that had a roof overhang on it; correct?

23 A. Yes.

24 Q. You remember there was an outdoor shower right up
25 at this end by somewhere in the middle of this area; right?

1 A. Almost towards the corner. Somewhere around
2 there.

3 Q. This corner up here, this is the room where the
4 bought body was found; correct?

5 A. Yes.

6 Q. The outdoor shower was just a shower head that was
7 attached to the wall. It didn't have any stalls or screens
8 or shower curtains; correct?

9 A. Right.

10 Q. There was a hot tub located right in here;
11 correct?

12 A. Yes.

13 Q. Didn't appear to be working, though; right?

14 A. I think it was empty.

15 Q. Maybe the front of it was off?

16 A. Possibly, yes.

17 Q. That hot tub didn't have any walls or privacy
18 screen around it, did it?

19 A. I don't remember.

20 Q. Okay. Now, the barn, did you go down and look at
21 the barn at some point?

22 A. Yes, I did.

23 Q. Next day?

24 A. I believe I assigned Detective Alex Jaramillo to
25 do that.

1 Q. There weren't any horses on the property when you
2 were there; right?

3 A. No.

4 Q. This is obviously a little horse barn. It had a
5 stall and a turnout on this end?

6 A. Yes.

7 Q. It had another sort of storage area, almost like a
8 little carport, and there was a door and a room that had a
9 storage area at this end of the barn; correct?

10 A. Yes.

11 Q. There was a tree house in here. Do you remember
12 the tree house?

13 A. Yes.

14 Q. Do you remember where the tree house was between
15 the main house and the barn?

16 A. Somewhere between, in those trees.

17 Q. It was in a tree. We have that established. It
18 was a house. Do you remember anything about it?

19 A. I don't remember exactly which tree.

20 Q. Who searched that?

21 A. I believe it was Alex Jaramillo.

22 Q. Went up the tree house?

23 A. I believe so.

24 Q. We will hear from him, I am sure.

25 THE COURT: Would this be a good time to take

1 a break?

2 MR. SEARS: Always would be fine, Your Honor.

3 THE COURT: Remember the admonition, please.

4 We will take the mid-morning break, about 15 minutes.

5 (Whereupon, the jury exits the courtroom.)

6 (Brief recess.)

7 (Whereupon, the jury enters the courtroom.)

8 THE COURT: Record reflects the jury is
9 present, the defendant and his three counsel, and the two
10 prosecutors.

11 You may proceed.

12 MR. SEARS: Thank you.

13 CROSS-EXAMINATION RESUMED

14 BY MR. SEARS:

15 Q. Sergeant, let me show you 2337 in evidence. And I
16 apologize for the lack of clarity here. But do you recognize
17 this as the end of Glenshandra and the fence line into the
18 open land here to the east? If I pull down here, do you see
19 the Bridle Path house here directly to the south?

20 A. Yes.

21 Q. And this is north up, at the jury request. So
22 here is Glenshandra coming in, and here is the end of
23 Glenshandra and the gate; right?

24 A. Okay.

25 Q. Looking over here at the open land to the east of

1 the gate, it is difficult to see. It is easier to see, but
2 you can see that this area is criss-crossed with a series of
3 trails. Here is a trail coming from the corner of Carol
4 Kennedy's property. Here is a trail, go off to the -- here
5 is a trail that runs out from Glenshandra gate out north and
6 east. Here is another trail that connects. You can see
7 little trails that criss-cross.

8 That is your experience in this area
9 here, that it is criss-crossed with a series of trails of
10 varying widths and usage; correct?

11 A. Yes.

12 Q. This also was, in July of 2008, a working cattle
13 ranch; wasn't it?

14 A. I don't know that.

15 Q. One of the tell-tale signs of a working cattle
16 ranch is the presence of cow manure. Do you agree with me?

17 A. I guess.

18 Q. Did you notice any cow manure along this trail
19 that starts at the east side of the Glenshandra gate moving
20 in that area?

21 A. I don't remember any. I was not looking for that.

22 Q. And how about hoof prints? Horse or cattle hoof
23 prints? Did you see horse or cattle hoof prints on either
24 day, either that night or the following day, or when you came
25 back on July 6, do you remember seeing evidence that this

1 area was used by horses and cattle?

2 A. I believe so, yes.

3 Q. Okay. Now, let's, if we could, go back to the --
4 let's talk about the work that you were doing at the house in
5 that period of time. You were there a little more than two
6 hours from 10:19 to a little after 12:30 in the morning.

7 In that period of time, let me understand
8 what you were doing. One of the first things you did, you
9 told us, was trying to round up some more detectives;
10 correct? That took you a period of time on the phone;
11 correct?

12 A. Yes.

13 Q. Then you made a couple of trips inside. The first
14 one with then Lieutenant Rhodes and Sergeant Acton to look
15 into the room where the body was; correct?

16 A. Yes.

17 Q. And then there was a trip in there, apparently,
18 with Doug Brown at 10:38. Was Doug Brown with you when you
19 went down the hall that first time to look in the room?

20 A. I don't think so, but I am not positive on that.

21 Q. Okay. Apparently then you would have had a period
22 of time with Detective Doug Brown to brief him on his new
23 role as case agent; correct?

24 A. Yes.

25 Q. He was appointed that night. It was a field

1 appointment; right?

2 A. Yes.

3 Q. You bestowed that honor on him right there?

4 A. Yes.

5 Q. And you started giving him ideas about what should
6 be done next; correct?

7 A. I am sure we discussed that, yes.

8 Q. Tell me what you told him.

9 A. I could not tell you exactly word for word, but I
10 am sure we discussed some sort of aspect.

11 Q. I am trying to get a sense for the jury of what
12 the sequence of events were on scene. Obviously, getting
13 more people there is part of the process. You being briefed.
14 Seeing the body. Talking to Dave Rhodes. Talking to the
15 first responders. That was part of what you did at the
16 beginning; right?

17 A. Yes.

18 Q. And then you took control of part of the
19 investigation; correct?

20 A. To some extent, yes.

21 Q. What were the first things, then, that you began
22 to do as detective sergeant in charge at that part of this
23 investigation?

24 A. People were briefing me on different aspects of
25 what they had found or seen, and I was asking them to do

1 certain things for me or contain or seal or preserve.

2 Q. Let's talk about this. What do you remember
3 telling people you wanted investigated and preserved?

4 A. At some point Sergeant Acton came to me and
5 advised me that they had seen trails, tracks, possibly
6 footprints out at Glenshandra. And I asked her to preserve
7 those for me.

8 Q. And was it your understanding that she had gotten
9 some information about that trailhead from a neighbor to the
10 south, Mr. Drake, during a canvass of the surrounding houses
11 to see if anyone had seen or heard anything?

12 A. I believe so. I learned that at some point. I
13 don't remember when.

14 Q. Were you familiar with the gate at the end of
15 Glenshandra before this case?

16 A. No.

17 Q. Had you ever been in that area at all?

18 A. No.

19 Q. Let's take a look, again, at 2337. We looked at
20 this for another reason just a minute ago.

21 We are looking now at Glenshandra and
22 this gate here. We talked a great deal with other witnesses,
23 Sergeant, about how you drive around and get there. It is a
24 relatively short path to go from Glenshandra straight down to
25 Carol Kennedy's house; right? It is not far at all, if you

1 are on the open land; correct?

2 A. Yes.

3 Q. Is there a particular trail -- we talked about all
4 of this honeycomb of other trails here. Is there a trail
5 that runs right along the fence from the gate at Glenshandra
6 south down to Carol Kennedy's house?

7 A. I believe there is. There might be. It kind of
8 criss-crosses back and forth. I actually walked part of that
9 or most of that fence area.

10 Q. Okay. You can see it looks like, just on this
11 photograph that was taken in 2007 -- it is a little hard to
12 see here -- but you can see that it appears in 2007, there
13 were some trails here, but there is some trees and shrubbery
14 that seem to be right along this fence line here that might
15 make it a bit tough to walk right next to the fence. Is that
16 your recollection?

17 A. Yes.

18 Q. That you have to sometimes go out and loop around
19 and loop around again. You can go generally south, but you
20 can't necessarily walk right along the fence; is that right?

21 A. Right.

22 Q. If you were trying to say -- to describe this to
23 people, and you said the trail behind Carol's house, there is
24 no one trail behind Carol's house; is there?

25 A. I would have to say there is probably several.

1 Q. And the further you get away from Carol's house,
2 it is possible that there are dozens, maybe even hundreds of
3 trails or pieces of trails in this whole 9,400 acres of open
4 land?

5 A. That is possible.

6 Q. You never explored all of that. You told us that;
7 right?

8 A. Right.

9 Q. This is 2339. Again, we are looking north up. It
10 is hard to know which is better. I guess there is a point at
11 which it starts to blur up.

12 We are looking again at Carol's house,
13 the guesthouse, the Drake's house here. This is the fence
14 line right behind her house here.

15 At some point, was it that night that you
16 instructed detectives to start looking at this barbed wire
17 fence that separated Carol's property from the open land to
18 inspect the fence?

19 A. I believe it might have been the next day. I
20 assigned Detective Steve Surak to inspect the fence and walk
21 along that in the perimeter of the house.

22 Q. Let me show you 2594 for identification, Sergeant,
23 and I will ask you if you recognize what is depicted in that
24 photograph?

25 A. I believe this is the --

1 Q. Just yes or no. Do you recognize it?

2 A. Yes.

3 Q. It is an area on the fence line that we have been
4 talking about here behind Carol Kennedy's house; correct? It
5 is actually up in the general direction of this walled
6 garden; correct?

7 A. Somewhere around there.

8 Q. You can see there are objects in that picture; is
9 that right?

10 A. Yes.

11 Q. That is the way it looked to you on July 3rd when
12 the sun was up, 2008?

13 A. I don't remember the trampoline.

14 Q. Do you have any reason to think that trampoline
15 was placed in there for the purposes of taking the picture?
16 I call your attention to this wooden structure here. Does
17 that look familiar to you?

18 A. Yes.

19 Q. Can you see that is the wall to the garden area to
20 the left?

21 A. Yes.

22 Q. Without regard to the trampoline, the wooden
23 structure and the wall, is that the way it looked to you on
24 July 3, 2008?

25 A. I believe so.

1 MR. SEARS: Thank you. I would move 2594.

2 MR. BUTNER: No objection.

3 THE COURT: 2594 is admitted.

4 MR. SEARS: May I show this to the jury,
5 Judge?

6 THE COURT: You may.

7 MR. SEARS: Thank you.

8 Q. We talked about this. Aside from the trampoline,
9 this is the wall to the wall garden; is that right, off to
10 the left?

11 A. I believe so, yes.

12 Q. You can't really see it here, but to the right of
13 this fence post is a barbed wire fence; correct?

14 A. Yes.

15 Q. This is taken from the back of Carol Kennedy's
16 property looking east onto the open land; correct?

17 A. I believe so.

18 Q. And this structure here with the horizontal wooden
19 slats, that would appear to be a way for a person to go
20 through the barbed wire fence, to just climb over these slats
21 onto the other side. That was your impression; correct?

22 A. Yes.

23 Q. That is what you thought it was?

24 A. Yes.

25 Q. Do you know who built that?

1 A. I believe Mr. DeMocker in the interview said he
2 did.

3 Q. Mr. DeMocker told you that he had lived at the
4 Bridle Path residence for many years before he moved out when
5 he and Carol separated; correct?

6 A. Yes.

7 Q. He knew the area behind to the east in the open
8 land. He was familiar with that area; correct?

9 A. I believe so, yes.

10 Q. He knew the trails on the other side. He knew
11 these trails over here on the west side of Williamson Valley.
12 He said that he would go over here up on the Granite Mountain
13 area on that side of Williamson Valley Road. He was familiar
14 with that; correct?

15 A. I believe he stated he rode his bike, or used to
16 ride his bike from home to the trails.

17 Q. In fact, he told you that at one point he and
18 Carol had owned some land, an acre of land up on Rainmaker;
19 correct?

20 A. I don't believe he said he and Carol. He said
21 "I."

22 Q. He owned land on Rainmaker; is that right?

23 A. True.

24 Q. He seemed to be familiar with that area; correct?

25 A. Yes.

1 Q. He liked that area. In fact, he told you that he
2 had this idea of maybe building a house on some land up there
3 in the future; correct?

4 A. Yes.

5 Q. Okay. And did Steve tell you that he also
6 actually built part of the house, the guesthouse and worked
7 on the main house at Bridle Path?

8 A. I don't remember that.

9 Q. But you have some recollection that he told you
10 that he may have built this structure here. What would you
11 call this? It is not really a gate; is it?

12 A. No, not really.

13 Q. Is there a better description than "climbing over
14 thing"? Is there a better way to describe that? So when we
15 talk about it, we are talking about the same thing.

16 A. I guess for court purposes, you can call it a
17 gate.

18 Q. If I say wooden gate, from now on we will be
19 talking about this. Is that fair?

20 A. That's fair.

21 MR. SEARS: Okay. Let me just take a second
22 here.

23 Counsel, I am looking at Bates 1812,
24 which is from -- it is a transcript prepared by the Sheriff's
25 office of the video interview of Mr. DeMocker that we watched

1 yesterday.

2 Q. By the way, is there some reason why the Sheriff's
3 department didn't get a better recording system?

4 A. We were -- we had just purchased that equipment,
5 and it is motion activated. We realized later that every
6 time it senses motion, it clicks. And that is why there is
7 those clicks in the audio.

8 Q. As a taxpayer, I hope you got your money back.

9 A. We replaced it.

10 Q. But not in time for this case.

11 A. Correct.

12 MR. SEARS: This is Bates 1812, which is the
13 interview three, Counsel, which is the first part of the
14 video, Page 11.

15 This is a transcript. It is a discussion
16 between you and Mr. DeMocker about Rainmaker. See if this
17 helps you remember a little bit about what he said. I've
18 highlighted it here. You are talking about this. He says,
19 "I go running there sometimes, but we owned property that is
20 about an acre that is at the top of Rainmaker." And you say,
21 "okay."

22 Q. In fact, that is what he told you. That is an
23 accurate transcript. He didn't say he owned property. He
24 said "we." And you understood the "we" was him and Carol
25 Kennedy; correct?

1 A. Okay.

2 Q. It was your impression that he no longer owned
3 that property; right?

4 A. I am not sure.

5 Q. Okay. Now, back to what you were doing. You were
6 assigning people to do various things, and we were talking
7 about what evidence you wanted them to preserve. Let's pick
8 it up there.

9 Tell me what potential evidence items you
10 personally were concerned about being either preserved or
11 collected at the scene. And I am talking about the night,
12 the two hours you were there from about 10:19 to a little
13 after 12:30 in the morning. What you were thinking of at
14 that point?

15 A. When I saw there was blood outside the doorway, I
16 was concerned that we needed to preserve that area and
17 possible areas of wherever the person who did this left.

18 Q. So, we are talking about now -- here is 1631
19 again, floor plan. We are talking about here's the room
20 where Carol was discovered, and we are talking about blood
21 outside this doorway here; correct?

22 A. Yes.

23 Q. The door that you can't tell me whether it was
24 locked or unlocked?

25 A. Correct.

1 Q. And the blood -- this is a concrete sidewalk,
2 essentially, that wraps this side of the house; correct?

3 A. Yes.

4 Q. It goes down, and you can see it, it turns the
5 corner here. Here is the back patio. Where is the outdoor
6 shower? Is it along this wall or this wall?

7 A. I am not exactly sure. It might be on that side.

8 Q. In this area here?

9 A. That is possible. I may be wrong.

10 Q. There were blood drops. Who discovered those
11 blood drops; do you know?

12 A. I believe it was Lieutenant Rhodes.

13 Q. And so they were preserved. They were eventually
14 photographed and then swabbed, and we will talk about the
15 criminalist and how they collect and preserve that evidence,
16 but Lieutenant Rhodes and you thought that was important that
17 there was now blood outside this room; correct?

18 A. Yes.

19 Q. And let's talk about that. So you have this door,
20 and you are not sure whether it is locked or unlocked, but
21 you see blood on the outside, and there is all this awful
22 blood on the inside; is that right, and you see a couple of
23 drops on the concrete out here; is that right?

24 A. The reason I was not sure about the door being
25 locked or unlocked, I believe Lieutenant Rhodes was at that

1 door with the door open already when I was on this side.

2 Q. So we are going to have to ask him about the door?

3 A. Yes.

4 Q. Was it that night or the next day when you saw the
5 blood drops?

6 A. It was that night.

7 Q. You think the door was already open?

8 A. I believe Lieutenant Rhodes was at that door,
9 right.

10 Q. Do you know how that door opens? Does it open
11 from the outside, from the inside? Do you need a key?

12 A. I believe there is a dead bolt on it, and
13 possibly -- I am not sure if there is an outside lock to it
14 or not.

15 Q. Let's take a look. Let me show you 2528.

16 Now, this is a police photo, so I am not
17 going to verify. Let me tell you that this is billed as a
18 photograph of that door, and although you are seeing a
19 reflection up here, you are seeing a lawn chair. If you look
20 down here, you can actually see you are looking into the room
21 where the body was. Do you recognize this as that door?
22 Here is the wall. Here is the door frame.

23 A. Yes.

24 Q. Now that would appear to be a door with a lock,
25 cylinder in the middle of it, and a separate dead bolt above

1 it; correct?

2 A. Yes.

3 Q. We will come back and talk much more about this
4 later, about why this was photographed, but your recollection
5 is this door was already open. Somehow this door had been
6 opened; correct?

7 A. Yes.

8 Q. There doesn't appear to be any way to open this
9 door from the outside without a key unless the door itself
10 was unlocked; correct?

11 A. Sure.

12 Q. You have to have a key, or it has to be unlocked.
13 You assume on the inside of the door there is a corresponding
14 piece of this lock set and this dead bolt on the inside;
15 correct?

16 A. I believe there is a door handle.

17 Q. Maybe a lever?

18 A. I believe so, yes.

19 Q. That would be on the other side of this piece of
20 the lock set; right?

21 A. Yes.

22 MR. SEARS: Okay. The picture I was just
23 showing you is 2528 in evidence, Your Honor.

24 THE COURT: Yeah, you said that.

25 MR. SEARS: Sorry, Your Honor. My alert

1 co-counsel are watching out for me here.

2 Q. So what did you do to preserve that blood so it
3 could later be collected for examination?

4 A. First of all, I made everybody aware of it to make
5 sure they are not stepping on it or contaminate it. I
6 believe we placed some sort of markers on it.

7 Q. What kind of markers?

8 A. Usually we have some sort of numbers or a little
9 flag or a little cone, some sort of indication that something
10 is there.

11 Q. And that was done so that at some point later when
12 the criminalist came from the lab, that would be a place they
13 would go to to collect evidence; correct?

14 A. Yes.

15 Q. Now that night in the two-plus hours that you were
16 there, there were no criminalists from the Department of
17 Public Safety on scene, yet; correct?

18 A. Right.

19 Q. Were there any evidence technicians from the
20 Sheriff's office there already collecting evidence that
21 night?

22 A. No, I don't believe so.

23 Q. So that process hadn't begun. That is something
24 that is done in an investigation. Eventually, evidence is
25 located and identified, photographed and then taken; correct?

1 A. Sure.

2 Q. Sometimes it is taken like the bicycle, for
3 example. The bicycle was taken because you thought it was
4 evidence, and because that bicycle wanted to be tested, you
5 wanted to look for evidence on the bicycle; right?

6 A. True.

7 Q. And other things like these blood drops, obviously
8 you are not going to jackhammer up the concrete. There is a
9 way that crime scene technicians can test that blood evidence
10 without physically taking it with them; correct?

11 A. True.

12 Q. Swabbing is one way. They swab; correct?

13 A. Yes.

14 Q. That is typically how blood evidence is collected?

15 A. Yes.

16 Q. You are not a criminalist. You don't have
17 experience in that area; is that right?

18 A. No, but I have collected swabs.

19 Q. You have been shown how to do it?

20 A. Yes.

21 Q. You can certainly pick up items. You can pick up
22 a bicycle, or you can pick up something off the floor. You
23 know how to do that; right?

24 A. Yes.

25 Q. You are supposed to wear gloves and do certain

1 basic things. You know how to take it and put it in evidence
2 bags and how to handle it so it is not contaminated?

3 A. True.

4 Q. The same would go with crime scenes. You know the
5 room where Carol Kennedy's body was found, it is was a very
6 important crime scene; correct?

7 A. Yes.

8 Q. It is full of potential evidence, all kinds of
9 evidence in that room; right?

10 A. Yes.

11 Q. Some of that evidence are things, like desks and
12 chairs and ladders. Those are important to preserve; right?

13 A. To some degree.

14 Q. To photograph and document those things so that
15 two years later when we are trying to explain to a jury what
16 this is about, they can see what it looked like on July 2nd,
17 2008; right?

18 A. True.

19 Q. That is really what you want to do. That requires
20 people with photographic skills, knowing how to photograph
21 crime scenes; right?

22 A. True.

23 Q. It is complicated, because photographing things in
24 a room is not easy. It is easy to take a picture of a sunset
25 or a baby or something like that, but trying to take pictures

1 inside a little room is a skill; isn't it?

2 A. Yes.

3 Q. To be able to show an entire room through a series
4 of photographs; correct?

5 A. Yes.

6 Q. And then there is lots of other kinds of crime
7 scene evidence that is not so obvious. Biological evidence.
8 What is biological evidence?

9 A. It could be considered blood, saliva, other types
10 of bodily fluids.

11 Q. DNA, fingerprints, is that biological evidence?

12 A. To some degree, yes.

13 Q. Then there is forensic evidence. Do you know what
14 forensic evidence means, or how that term is used?

15 A. It depends on the context.

16 Q. Let's talk about things like shoe print
17 impressions or bicycle tire impressions. Are those examples
18 of forensic evidence?

19 A. Yes.

20 Q. Evidence that would be used in a court; right?

21 A. Yes.

22 Q. Fingerprint evidence would really be a kind of
23 forensic evidence; correct?

24 A. Sure.

25 Q. There are other things that could be like the text

1 messages we saw, your gloved hand and Steve's phone. That is
2 a kind of forensic evidence; right?

3 A. Yes.

4 Q. Bicycles and bicycle pumps and clothes and things
5 like that, that is all forensic evidence; right?

6 A. Or physical evidence.

7 Q. It is terribly important; isn't it, to be careful
8 in both collecting and preserving that evidence? That is
9 really critical to a criminal investigation; isn't it?

10 A. Yes.

11 Q. Because the possibility of mishandling evidence or
12 contaminating evidence can change the outcome of a case
13 potentially; can't it?

14 A. That is possible.

15 Q. If evidence is lost or misplaced or not properly
16 preserved, then basically it can never be used again;
17 correct?

18 A. It is possible.

19 Q. Some kind of evidence that we are talking about is
20 evidence that really is difficult to preserve. Shoe prints
21 and tracks in the dirt; correct?

22 A. Yeah. It is somewhat difficult.

23 Q. It is easy to preserve a bicycle. You pick the
24 bicycle up, and you store it, and you bring it into the
25 courtroom. That is pretty straightforward; right?

1 A. True.

2 Q. You can't bring, necessarily, shoe prints in the
3 dirt into the courtroom two years later; correct?

4 A. True.

5 Q. We will talk in some detail about some ways it can
6 be preserved, but a lot of times you have to rely on
7 photographs; right?

8 A. Yes.

9 Q. We have already seen some photographs that were
10 taken that night, and we have seen some unfortunate
11 photographs that Deputy Taintor tried to take out at the gate
12 at Glenshandra that looked like he forgot to take the lens
13 cap off. Have you seen those photographs?

14 A. A while back.

15 Q. They were of no use in this investigation; were
16 they?

17 A. I believe some of them were useful.

18 Q. We will see if we can find some that were. There
19 were many that were just dark. You couldn't see what they
20 were photographs of; correct?

21 A. There were some.

22 Q. And then there are other photographs, and we have
23 seen lots of them, and we are going to see lots more, that
24 were taken over the course of the next day or so, including
25 the next day when the sun came up. That was part of the

1 problem in this investigation. It started late at night;
2 correct?

3 A. True.

4 Q. So you had to really wait for daylight, because
5 you said, to do a lot of this investigation?

6 A. Yes.

7 Q. What were you able to accomplish, in your own
8 mind, in terms of the crime scene investigation that night
9 out at Bridle Path before you left?

10 A. We were able to accomplish some and determine
11 possible points of entry or exit, and we tried to preserve
12 those.

13 Q. Let's talk about at the end of Glenshandra again.
14 You went out there. Did you delegate somebody to go out
15 there and investigate that scene, or was that done by
16 somebody else?

17 A. I believe Sergeant Acton took it upon herself.

18 Q. After she had contacted the neighbor and gotten
19 some information about this?

20 A. That's correct.

21 Q. And she got a map and looked at the map and saw
22 that a street called Glenshandra came in to the north; is
23 that right?

24 A. I believe so.

25 Q. She had some information that maybe that was a

1 trailhead?

2 A. I believe so, yes.

3 Q. There was some idea in your mind, or at least in
4 Sergeant Acton's mind, that maybe whoever did this came in
5 off the open land; is that right?

6 A. Yes.

7 Q. Okay. But the person could have come in off
8 Bridle Path on the street and walked up and rang the door
9 bell; right?

10 A. Yeah, that is possible.

11 Q. And I am not hearing you tell me about much of an
12 investigation of the physical evidence at the front of the
13 house. You were focusing on the back of the house and
14 Glenshandra; right?

15 A. To some degree, yes.

16 Q. Okay. You told me that you are not aware of any
17 forensic photographs being taken of shoe print impressions,
18 if there were any, or tire print impressions to preserve them
19 in the front of the house; correct?

20 A. I do not remember any of that type of photographs.
21 I am positive I probably assigned somebody to walk the
22 perimeter of the home and search to see what possible
23 evidence is there.

24 Q. Let me fast forward a little bit here to see if we
25 can connect this up.

1 You know that Mr. DeMocker's car, his BMW
2 automobile was seized pursuant to a search warrant the next
3 day; correct?

4 A. Yes.

5 Q. It was taken and analyzed by the police and by the
6 crime lab looking for evidence in it; correct?

7 A. Yes.

8 Q. One of things that was done was an impression was
9 made on paper of the tire pattern of Mr. DeMocker's car. Did
10 you know that?

11 A. I believe so.

12 Q. There are big sheets of, looks like, butcher paper
13 with inked rolled tire patterns to create a physical
14 impression of the pattern on Mr. DeMocker's tires; right?

15 A. That is usually how it is done.

16 Q. What was that used for?

17 A. We did that in the process of -- it is just one of
18 the processes that we go through when we examine a vehicle.

19 Q. Right. But the point of doing that, of going to
20 the trouble of putting ink on the tires and rolling it out,
21 is so you can see what the pattern on his automobile tires
22 looked like; right?

23 A. True.

24 Q. Remember, we have 2318. We have some automobile
25 tire tracks. Wouldn't it have been important to know whether

1 Mr. DeMocker's BMW laid down those tire impressions?

2 A. True.

3 Q. Never happened; right?

4 A. Not to my knowledge, no.

5 Q. How about up on Rainmaker where Mr. DeMocker said
6 he was parked that night, okay. He said he parked his BMW
7 automobile up on the high part of Rainmaker that night;
8 correct?

9 A. Yes.

10 Q. You had at some point crime lab impressions of the
11 tire patterns of his car. What investigation was done that
12 night or the next day or ever up on Rainmaker to see if you
13 could find tire print impressions for Mr. DeMocker's car in
14 the dirt up on Rainmaker that would corroborate what
15 Mr. DeMocker said he did that night?

16 A. Based on Mr. DeMocker's description of the area, I
17 was not able to find or be positive where exactly that
18 location was.

19 Q. We will talk about what might have been able to be
20 done. The answer is no investigation was done; correct?

21 A. Correct.

22 Q. No one even went up there to try to find where on
23 Rainmaker he parked; right?

24 A. Eventually somebody did.

25 Q. How about July 2nd or July 3rd, 2008, when the

1 evidence would still have been fresh, if he had been there?

2 A. I don't remember the exact date, but Detective
3 Brown did and Detective Jaramillo did go to that area, and so
4 did I, on the 6th.

5 Q. We know that Detective Brown took -- Detective
6 Jaramillo went in this area about 4:30 the next morning, July
7 3rd. You weren't with them that morning; right?

8 A. Sure.

9 Q. We will hear from them. I understand you weren't
10 with them. You can't speak to what they did or didn't do
11 about Rainmaker.

12 Tell me in all of this evidence here,
13 thousands and thousands of photographs and documents, have
14 you seen one photograph taken by law enforcement of the area,
15 dirt area, near Rainmaker where Mr. DeMocker said he was
16 parked?

17 A. I don't know if there was any taken.

18 Q. Okay. Now back to the scene.

19 We talked about the kinds of evidence and
20 the kinds of photography. Do you have any training in
21 forensic photography yourself?

22 A. Yes, I do.

23 Q. What is your training?

24 A. I took a D.P.S. course on photographic -- I
25 believe it was a three-day photograph class.

1 Q. Do you remember who your instructor was?

2 A. I believe it was a D.P.S. photographer.

3 Q. Was it Randy Anglin? Tall, bald headed fellow,
4 shaved head?

5 A. I don't think so.

6 Q. When was that?

7 A. Many years ago.

8 Q. There is a special way, then, that D.P.S. --
9 D.P.S. is the State police, the Department of Public Safety
10 in Arizona; correct?

11 A. Yes.

12 Q. And the D.P.S. has, so we understand here,
13 operates crime labs; correct?

14 A. True.

15 Q. They have a Northern Arizona Crime Lab in
16 Flagstaff, and they have a large crime lab in Phoenix;
17 correct?

18 A. Yes.

19 Q. In July of 2008, they did a lot of the
20 investigation. Over the course of this case, the D.P.S.
21 crime lab has done a lot of the investigation of evidence in
22 this case for the Yavapai County Sheriff's office; correct?

23 A. Yes.

24 Q. They have done DNA investigation, blood evidence,
25 and all kinds of other scientific examination; correct?

1 A. Yes.

2 Q. And they have written guidelines. They are called
3 protocols of how to collect evidence. How they would
4 recommend local law enforcement, like you, go about
5 collecting evidence, so that they can do their examination
6 properly; correct?

7 A. I believe so, but I have not seen those.

8 Q. One of the areas in which they make a lot of
9 detailed suggestions is how to photograph evidence, and the
10 right way to do it; correct?

11 A. Like I said, I have not seen those.

12 Q. You took a class in the D.P.S. way to do it;
13 correct?

14 A. Yes, I did.

15 Q. And it talked about things like where to position
16 your camera. How to use what are called scales, which are
17 kinds of rulers. Let me show you an example of that. This
18 is 2531, this is that same door handle on the door.

19 Do you see -- the criminalist call it a
20 scale. I call it a ruler, but it is inches and centimeters
21 on there. Do you see how that is positioned there?

22 A. Yes.

23 Q. If I told you that this was used by a criminalist
24 from D.P.S. the next day -- she thought she saw some possible
25 evidence along here -- that is one of the things you learn

1 how to do is how to use these scales in taking proper
2 forensic photographs; correct?

3 A. Yes.

4 Q. You also learn how to identify things, so that if
5 you are taking a picture of something out in the middle of
6 nowhere, there is some way years down the road when you are
7 in trial to say, I know where that was. I know where that
8 object was or that piece of evidence was, using all kinds of
9 devices, like those evidence tents that we talked about?

10 A. I learn that you number the items, sometimes.

11 Q. It is important to do that, because what you are
12 trying to do with photographs is to use photographs to not
13 only show what is in the photograph, but also to preserve
14 evidence so that other people, a jury, would have some idea
15 of what the evidence actually was. Where it was. How it
16 related to other things. Where you found it. What it looked
17 like. Those are all parts of the photographic skills that
18 you heard about in that class you took; right?

19 A. Yes.

20 Q. And going back to July 2nd, that night, in that
21 two-hour time period there, you told us about the blood
22 drops. What else -- and the impression evidence you saw at
23 Glenshandra. Let's move to that. When you got out there,
24 who was out at Glenshandra?

25 A. I don't remember exactly who was out there.

1 Q. But it was sometime before 12:30 in the morning;
2 is that right?

3 A. I don't remember exactly what time I was out
4 there, either.

5 Q. The log we saw showed that you logged out at the
6 scene at, I believe, it is 12:33 in the morning. It might be
7 12:37. Let's be careful here. Let's look at -- this is
8 1613. Okay.

9 You see here, it shows you that you were
10 at the scene until 0037, and we didn't see another entry for
11 you after that. Do you think you went out to Glenshandra
12 after 12:37 in the morning?

13 A. That is possible.

14 Q. We are going to talk about this here in just a
15 second, but you started having contact with Mr. DeMocker
16 sometime in that vicinity; right, sometime shortly after
17 midnight?

18 A. Sure.

19 Q. Remember you said you were on scene up here at
20 10:19; right? 2219?

21 A. Sure.

22 Q. So sometime in that period of time, which is a
23 little over two hours, you think that is when you went out to
24 Glenshandra?

25 A. I am not exactly sure. It might have been the

1 next day, though. I may have been confused as to what time I
2 was out there.

3 Q. Try to think hard here. Do you have a
4 recollection that night of leaving the Bridle Path area and
5 going out in the dark to Glenshandra and being shown
6 something?

7 A. I don't think I went out that night.

8 Q. You were told about it?

9 A. I believe so, yes.

10 Q. And people told you that they had found some shoe
11 print impressions and possible bicycle tire impressions; is
12 that right?

13 A. Yes.

14 Q. Now, this is before any extensive interview of
15 Mr. DeMocker had been done; right? Did you get that
16 information before you had done any sort of interview with
17 Mr. DeMocker?

18 A. I believe it was almost in the same time frame,
19 possibly.

20 Q. When did you personally first learn that
21 Mr. DeMocker was saying that he had been on a mountain bike
22 ride that night at the time of the murder?

23 A. When I spoke to him at the scene.

24 Q. Shortly after you contacted him, he was saying he
25 was on a bike ride; right?

1 A. Yes.

2 Q. Is this what they call a light bulb moment, where
3 he says he was on a bike ride, and somebody else says, hey,
4 there are bike tracks over here, is that when the light bulb
5 goes on?

6 A. To some extent, yes.

7 Q. We will talk a lot about this in a bit, but you
8 don't think, though, that you went out. You think you left
9 and went with Mr. DeMocker back to the Sheriff's office
10 without ever going out to Glenshandra that night; correct?

11 A. I believe so.

12 Q. When you went out the next day -- I don't think
13 you were on the log, because you were working all night.
14 What time the next day did you go back out to the scene? Do
15 you remember?

16 A. It was after we went to Mr. DeMocker's home.
17 After I left there, I went back to Bridle Path.

18 Q. We are going to talk in considerable detail about
19 your contacts with Mr. DeMocker, but the sequence of events
20 is you are on the scene, you get a briefing, you conduct a
21 little investigation, Mr. DeMocker shows up, you talk to him,
22 and a decision is made to leave and go down to the Sheriff's
23 office here in town and interview Mr. DeMocker, his daughter
24 and her friend at length; correct?

25 A. Yes.

1 Q. And the purpose for interviewing them at length,
2 part was that you could use this wonderful recording system
3 to preserve that audio and video; correct?

4 A. Yes.

5 Q. And you didn't have a video recording capability
6 out at the scene. You had an audio recorder. We have heard
7 that; right?

8 A. Sure.

9 Q. And you told us that -- a number of jurors have
10 asked why the recording devices were hidden? Why you didn't
11 show Mr. DeMocker the recorder, and why when he was taken
12 into the room with the wonderful system, he wasn't told he
13 was on tape? And what I remember you saying was that your
14 experience was that people were more open when they didn't
15 know they were being recorded?

16 A. Yes. They don't focus on the recording device.

17 Q. That is a good thing; right?

18 A. Yes.

19 Q. You want people to be open with you; right?

20 A. Yes.

21 Q. You don't want people shading their story or
22 talking to the camera or anything like that. You want people
23 to tell it like it is?

24 A. And I also want to preserve them.

25 Q. There is another interesting dynamic here that has

1 to do with getting people you want to interview in a
2 cooperating frame of mind. This is something you were
3 trained in; right?

4 A. To some extent.

5 Q. You have had some training in interviewing and
6 interrogation techniques; right?

7 A. Yes.

8 Q. The old stereotype of putting a suspect in a hard
9 chair and shining a light in their face, that generally
10 doesn't work; does it?

11 A. No.

12 Q. In fact, just the opposite is what you try to do.
13 You try to get people comfortable and relaxed and in a
14 talkative mood; correct?

15 A. Yes.

16 Q. That is not an easy skill; is it?

17 A. I don't know if I have it.

18 Q. Apparently you did. You didn't have any trouble
19 getting Mr. DeMocker to talk to you. At least as far as
20 Mr. DeMocker is concerned, it worked; right?

21 A. Okay.

22 Q. And his daughter and her friend Jacob. They all
23 talked to you. So obviously, all of you had the ability to
24 get them feeling comfortable; correct?

25 A. I believe so.

1 Q. There are a number of things that you do in that
2 regard to get people to cooperate and continue to cooperate.
3 One is to not arrest them, not cuff them up and read them
4 their rights first thing out of the box; right? If you don't
5 have to do that, that wouldn't be your first choice; right?

6 A. I hadn't reason to.

7 Q. When you read people their rights, one of the
8 rights you read them is you have the right to remain silent.
9 That is not what you want them to do at the beginning of the
10 investigation; right?

11 A. My job is to try to find out what happened, yes.

12 Q. When you put handcuffs on people, is it your
13 experience that is sometimes an off-putting circumstance that
14 makes people sometimes reluctant to talk to you?

15 A. Yes.

16 Q. It is not a good ice breaker in a conversation.
17 Turn around and put your hands behind your back. That
18 doesn't get people talking to you?

19 A. Not really.

20 Q. But telling people that you just want to clear
21 things up, that you just have a few questions and you need
22 some information, like you were telling Mr. DeMocker, that is
23 a way to get people interested in talking to you; correct?

24 A. And I needed to know that information.

25 Q. Sure. It was true. You really did want some of

1 this to be cleared up; right?

2 A. Yes, I did.

3 Q. And you wanted Mr. DeMocker to come down and give
4 you as much information as he possibly could on a voluntary
5 basis. That is the easiest way to get it; right?

6 A. Yes.

7 Q. And at some point if you push too hard, people
8 sometimes stop talking; correct?

9 A. True.

10 Q. You have to learn to back off and to get the
11 information you want but to do it in a reasonable way?

12 A. Yes.

13 Q. Kind of like we are doing here?

14 A. I treat people the way I want to be treated.

15 Q. That is a very good thing.

16 Let's talk about your first contact with
17 Mr. DeMocker. Where were you, if you remember, when you
18 first saw Mr. DeMocker?

19 A. I believe I might have been right outside the
20 Bridle Path address.

21 Q. Okay. And did you see him drive up?

22 A. No, I don't think so.

23 Q. Were you made aware that he was there?

24 A. Yes.

25 Q. Do you remember by who?

1 A. I believe it was Commander Mascher.

2 Q. And so, now people two rungs above you, your
3 lieutenant is there and your commander is there on scene, so
4 this is drawing a big crowd, this event; correct?

5 A. I guess so.

6 Q. And the Sheriff actually showed up at one point?

7 A. I don't remember that.

8 Q. Let me show you 1613. Wasn't there very long.
9 You see Sheriff Waugh, 7:36 the next morning, and he was
10 there for nine minutes.

11 A. Okay.

12 Q. So that is everybody in the chain of command. The
13 Sheriff, the Commander Mascher and Lieutenant Rhodes, and
14 then we start going down the food chain down to lieutenants
15 and then eventually get to sergeants and down to detectives
16 and deputies. So we have got pretty much the whole chain of
17 command there at one time or another at the scene?

18 A. Yes, but I don't remember Sheriff Waugh being
19 there.

20 Q. You weren't there. It is pretty clear you weren't
21 there. It is the next morning and you were doing other
22 things; right?

23 A. Possibly, yes.

24 Q. Does it surprise you that he was there?

25 A. No.

1 Q. Now, so you see Mr. DeMocker. Had you had any
2 contact with Charlotte or Jacob before Mr. DeMocker arrived
3 on scene?

4 A. Very briefly, yes.

5 Q. Tell us about it.

6 A. I believe I was trying to make some phone calls
7 when I was advised that there was a vehicle coming in our
8 direction, and it turned out to be Charlotte and Jacob.

9 Q. You weren't expecting them?

10 A. No. I wasn't expecting anybody.

11 Q. You didn't know who -- did you have any I.D. on
12 the victim at that point before they arrived?

13 A. To some degree.

14 Q. From information from her purse, perhaps?

15 A. I believe so, yes.

16 Q. But you didn't know relationships. You didn't
17 know family, anything about her?

18 A. No.

19 Q. Just who she might be?

20 A. Yes.

21 Q. And it was an assumption that -- you had her purse
22 and her wallet, and we have heard from a witness that
23 actually went in and looked at the driver's license and said,
24 okay, that is Carol Kennedy.

25 A. Sure.

1 Q. That part was pretty clear, but you weren't
2 expecting anybody else. So Charlotte and Jacob drive up; is
3 that right?

4 A. That's true.

5 Q. Who goes to meet them?

6 A. I believe it was Detective Doug Brown and myself.

7 Q. Do you remember when that was?

8 A. Somewhere before midnight.

9 Q. Close to midnight?

10 A. Just about there.

11 Q. And what do you say to them?

12 A. We are trying to find out who they are and why
13 they are there and the reason for being there.

14 Q. That is obtained pretty quickly?

15 A. Yes.

16 Q. And you learn that this is Carol Kennedy's
17 daughter and her boyfriend; right?

18 A. Yes.

19 Q. Who tells Charlotte what's happened to her mother?

20 A. I believe it is Doug Brown.

21 Q. What does he say?

22 A. I believe he stated that her mom had passed away.

23 Q. Were you standing there where you could hear that?

24 A. I don't remember if I remember from being there or
25 from listening to the tape.

1 Q. Okay. Do you remember what Charlotte's reaction
2 was?

3 A. She was devastated.

4 Q. How did she demonstrate that?

5 A. She was crying.

6 Q. Was she in her car or out of her car?

7 A. I believe she was in her car.

8 Q. Did you see her talking on the phone when she
9 drove up?

10 A. I believe she was on the phone.

11 Q. Did you see what happened to the phone?

12 A. I think it fell.

13 Q. Where were you when this was happening?

14 A. I was either outside, watching from outside the
15 vehicle.

16 Q. You were up near the vehicle?

17 A. Yes.

18 Q. And Doug Brown and -- were you on one side and
19 Doug on the other?

20 A. I don't exactly remember where I was at.

21 Q. Did you say anything to Charlotte?

22 A. I don't think so.

23 Q. Then what happened?

24 A. Then Doug Brown began to speak with her, and I
25 spoke with Jacob.

1 Q. Did you get him out of the car?

2 A. At some point, yes.

3 Q. And how was Charlotte behaving at that point when
4 she gets out of the car?

5 A. I left the -- I had no contact with her, and I
6 spoke with Jacob.

7 Q. You separated them?

8 A. Yes.

9 Q. Now that is a basic technique. Those of us that
10 watch too much television and stuff understand that
11 apparently one of the police techniques in interviews is if
12 you have multiple subjects, you separate them to have a
13 conversation; right?

14 A. Yes. I want to get their independent information
15 of what they remember.

16 Q. So the idea is you take two people, separate them,
17 and ask them similar questions to see if their stories match;
18 right?

19 A. Yes, so they don't contaminate each other stories.

20 Q. And if they are telling different stories?

21 A. True.

22 Q. There is the old one from the movies about we have
23 got your partner in the other room and he is singing like a
24 canary. Do you remember that from the bad movies?

25 A. No.

1 Q. I think that would be an age issue.

2 A. Maybe so.

3 Q. The idea that you tell a subject that somebody
4 else is saying something and see what their reaction is, that
5 is another interview technique; right?

6 A. Yes.

7 Q. What you tell that person may not even necessarily
8 be true?

9 A. True.

10 Q. This may be news to the folks in the jury, but
11 sometimes the police will lie to somebody during an
12 investigation?

13 A. As a technique, yes.

14 Q. Now, at this point, though, you just really want
15 to see what Jacob and Charlotte are saying; is that right?

16 A. Yes.

17 Q. And do you tape record Jacob?

18 A. Yes, I do.

19 Q. Who is talking to Charlotte at that point?

20 A. I believe it is Doug Brown.

21 Q. And do you learn pretty quickly that Steve
22 DeMocker was on the phone, and that he is now coming out. He
23 has talked to Doug Brown and he is on his way out?

24 A. Yes.

25 Q. That is an important development in this

1 investigation now; right?

2 A. Yes.

3 Q. You learn that he is the ex-husband. You get that
4 fact pretty early on?

5 A. True.

6 Q. He doesn't live there. He is the ex-husband;
7 right?

8 A. Yes.

9 Q. That is somebody you really want to talk to;
10 right?

11 A. We want to talk to everybody that she knew.

12 Q. That is somebody that you really want to talk to
13 in particular, though, the ex-husband; right?

14 A. To some degree.

15 Q. He is going to have potentially a great deal of
16 information about this circumstance; correct?

17 A. Everyone in the family would.

18 Q. I once heard Captain Rhodes say that in a police
19 investigation, in a homicide, you often start and work from
20 the inside out. Have you ever heard him say that?

21 A. No.

22 Q. Have you ever heard that technique in a homicide
23 investigation?

24 A. Sometimes you start with the closest people to the
25 victim.

1 Q. Now, when you say closest people, do you mean
2 people who were physically closest, or people who were
3 closest in a relationship or both?

4 A. Both.

5 Q. Okay. So you have got now on scene the victim's
6 daughter; correct?

7 A. Yes.

8 Q. And her boyfriend. Those are close people to the
9 victim; right, presumably?

10 A. Yes.

11 Q. Although apparently they don't live there, but
12 that is her daughter; right, and she is a teenager?

13 A. True.

14 Q. Now you have the ex-husband about to arrive. He
15 would be a person considered close; right?

16 A. Yes.

17 Q. Let's talk about Mr. Knapp, though, for a minute.
18 Mr. Knapp was on scene, according to the testimony we have
19 heard so far, just minutes after Deputy Taintor came. Were
20 you aware of that?

21 A. I knew he arrived there at some point in time.

22 Q. That he showed up in his car, like Charlotte,
23 unannounced, unexpected, and said he lived on the property;
24 right?

25 A. Sure.

1 Q. Without regard to what Mr. Knapp's relationship
2 might have been with Carol Kennedy, physically he was a
3 person that was close to her. He lived just feet from where
4 her body was found; correct?

5 A. True.

6 Q. He is an important person that needs to be
7 interviewed; correct?

8 A. Yes.

9 Q. What we heard so far is that the interview that
10 night with Mr. Knapp consisted of sporadic back and forth
11 between Deputy Boan and Mr. Knapp, while Deputy Boan was
12 assigned to watch him, to be with him. That was the
13 interview that night; correct?

14 A. I believe at some point Detective Brown also
15 attempted to speak with him or spoke with him.

16 Q. We will talk about that, and maybe we will have to
17 talk to Detective Brown about that when he comes in here.

18 Mr. Knapp was not taken -- was not
19 invited down to the Sheriff's office to be interviewed that
20 night; correct?

21 A. Right.

22 Q. You have seen in the transcript -- I assume you
23 have read the transcript of all of these recorded interviews
24 with Mr. DeMocker?

25 A. All the transcripts? Say again.

1 Q. Of the audiotaped -- the seven parts. The two
2 audio recordings and then the five parts that make up the
3 video. We have heard the audio now through your testimony,
4 and we have seen the video. And you reviewed these
5 transcripts; haven't you?

6 A. Yes.

7 Q. Do you remember before you left to go downtown to
8 do these interviews, Commander Mascher got involved in the
9 discussions with Mr. DeMocker, that he was there briefly? Do
10 you remember that?

11 A. Yes.

12 Q. Do you remember Commander Mascher telling
13 Mr. DeMocker that Mr. Knapp was going to be questioned that
14 night, as well?

15 A. I believe so.

16 Q. That didn't happen; did it?

17 A. I don't know if he said that night, but I believe
18 he said everyone was going to be spoken to or questioned or
19 interviewed.

20 Q. He mentioned Mr. Knapp specifically; right?

21 A. I think so.

22 Q. Okay. That didn't happen?

23 A. Not that I remember, no.

24 Q. In fact, what happened was after four plus hours,
25 Mr. Knapp announced that he was going to spend the night in a

1 motel in town; right?

2 A. Yes.

3 Q. That is where Mr. Knapp apparently headed;
4 correct?

5 A. I believe so.

6 Q. He just left the scene; correct?

7 A. No. We advised him he could leave.

8 Q. Mr. Knapp had provided Deputy Boan with an alibi;
9 correct? He said where he had been and what he was doing?

10 A. I believe so.

11 Q. No one in law enforcement did anything to verify
12 Mr. Knapp's alibi that night before he was allowed to go on
13 his way. Isn't that true?

14 A. Not that night, but it was done.

15 Q. Not that night. Mr. Knapp left before anyone had
16 verified his alibi; correct?

17 A. I believe so.

18 Q. On the other hand, Mr. DeMocker gave you what
19 would amount to an alibi. He said where he was. He didn't
20 see any people, but he said where he was and what he had been
21 doing in a very detailed way. He took you through his whole
22 day; correct?

23 A. He also stated that he couldn't prove that he was
24 there.

25 Q. But Mr. DeMocker was taken and questioned; right?

1 A. Yes.

2 Q. On video. We have heard it and we have seen it;
3 correct?

4 A. Yes.

5 Q. But not Mr. Knapp?

6 A. He was on the list.

7 Q. What?

8 A. He was on the list.

9 Q. He was on the list?

10 A. Yes.

11 Q. He lived how many feet away? 30 feet?

12 A. Next door.

13 Q. Mr. DeMocker lived how many miles away?

14 A. True.

15 Q. How many?

16 A. Don't know, several.

17 Q. Ten, twelve?

18 A. Don't know.

19 Q. He lived in town; right?

20 A. True.

21 Q. We have got a map here. If you want to step down,
22 if you could. We have a volunteer easel.

23 You can see here, this is a map north up
24 again, here is Williamson Valley Road. Here is Bridle Path.
25 Can you see what I am circling?

1 A. Yes.

2 Q. All the way down here, and here is Prescott. Here
3 is Iron Springs Road. Here is Gail Gardner. And all the way
4 down here is Alpine Meadows in the lower left-hand corner of
5 this map; right?

6 A. Right.

7 Q. That is where Mr. DeMocker lived?

8 A. Yes.

9 Q. Mr. Knapp lived at 7485 and something North Bridle
10 Path, 30 feet from the scene?

11 A. Sure.

12 Q. And Mr. DeMocker lived all the way down here.

13 A. But Mr. DeMocker also placed himself there.

14 Q. He did. We will talk about how far that is.

15 This is where Mr. DeMocker lived.

16 A. Sure.

17 THE COURT: What number is that?

18 THE BAILIFF: That is 2294.

19 THE COURT: Thank you. 2294 was used.

20 MR. SEARS: Thank you.

21 Q. So there was a discussion with Mr. DeMocker about
22 having him go down to the station, and the original plan is
23 that Mr. DeMocker will go with whom? How will he be
24 transported, do you remember?

25 A. We were going to give him a ride.

1 Q. Do you remember who "we" was?

2 A. I believe it was Detective Doug Brown.

3 Q. And there were a couple of reasons for that. One
4 was you want to make sure Mr. DeMocker showed up and didn't
5 decide that was a good time to take a vacation; right? You
6 wanted him to come down and be interviewed; right?

7 A. True.

8 Q. The other thing was it was another opportunity to
9 talk to Mr. DeMocker. Presumably, if he had ridden with
10 Detective Brown, there is a portion of a tape where he is in
11 a car with Detective Brown and they are talking. So
12 Detective Brown would have continued this surreptitiously
13 recorded interview with Mr. DeMocker on the drive from Bridle
14 Path to the Sheriff's office here in Prescott; right?

15 A. Yes.

16 Q. It would have been another opportunity for them to
17 relax and get comfortable with each other; right?

18 A. Yes.

19 Q. This is one of the skills that Detective Brown
20 had; right? He may have been a little short in his
21 organizational skills, but he was pretty good at talking to
22 people; right?

23 A. I believe so.

24 Q. He is a friendly guy; right?

25 A. Yes.

1 Q. You hesitated. Is he not a friendly person?

2 A. I have never met a friendlier person.

3 Q. That was something he was good at. He was good at
4 making people feel at ease so that they would talk to him?

5 A. Yes.

6 Q. That was part of the plan. And then Charlotte and
7 Jake were going to be driven in a police car together or
8 separately?

9 A. I don't remember. Possibly together.

10 Q. Was there some discussion that Commander Mascher
11 would give them a ride?

12 A. I believe so.

13 Q. He is good with kids, with teenagers; right?

14 A. I don't know.

15 Q. Okay. Do you know why he decided that he would be
16 the one that would drive them?

17 A. Don't know.

18 Q. But again, another opportunity to keep this young
19 team talking on tape; right?

20 A. I don't know if he had a recorder or not.

21 Q. And have them separated from their father, as
22 opposed to everybody riding in the same car?

23 A. I don't think we planned that.

24 Q. Now, at some point not long into the ride with
25 Detective Brown, it dawns on Mr. DeMocker that his car is at

1 Bridle Path, and that when he is done talking to you, he is
2 going to have to go all the way out to Bridle Path even
3 though he lives a couple of miles from the Sheriff's office.
4 He realizes that his car is going to be left out there if he
5 continues to ride with Doug Brown; right?

6 A. I believe I heard that on the tape.

7 Q. Mr. DeMocker suggests that how about if I just
8 drive myself, and there is some discussion. Eventually he is
9 allowed to do that. Detective Brown circles back and takes
10 him back to Bridle Path and let's him drive his own car;
11 right?

12 A. I believe Detective Brown said it was a great
13 idea. That way we didn't have to bring him back.

14 Q. Which was at that time in the morning a great
15 idea?

16 A. Yes.

17 Q. But on the other hand, it leaves Mr. DeMocker out
18 there, and hopefully he is going to show up at the Sheriff's
19 office, but it is not as certain a thing as if he is riding
20 with Detective Brown. If he rides with Detective Brown, he
21 is going to the Sheriff's office; right?

22 A. True.

23 Q. But you trusted Mr. DeMocker at that point to do
24 what he said. And, in fact, he did. He followed Detective
25 Brown in; is that right?

1 A. I believe so.

2 Q. Were you aware that Detective Brown apparently
3 didn't know how to get from Bridle Path to the Sheriff's
4 office, and decided that it was a good idea to go out to the
5 Outer Loop Road and over to 89 and into town that way?

6 A. I heard something on the tape about that.

7 Q. That is not how you would have gone; right?

8 A. Probably not.

9 Q. You would have went just straight down Williamson
10 Valley Road to Iron Springs. Iron Springs straight into
11 town. At that time of morning, no traffic?

12 A. Right. He is from Mayer.

13 Q. Apparently so. Do you know if he had a map or GPS
14 or what he was thinking?

15 A. Don't know.

16 Q. His removal as case agent had nothing to do with
17 how he drove?

18 A. No.

19 Q. Just checking.

20 THE COURT: Mr. Sears, I think we need to take
21 a break at this point.

22 Stand in recess for lunch, and resume at
23 1:15.

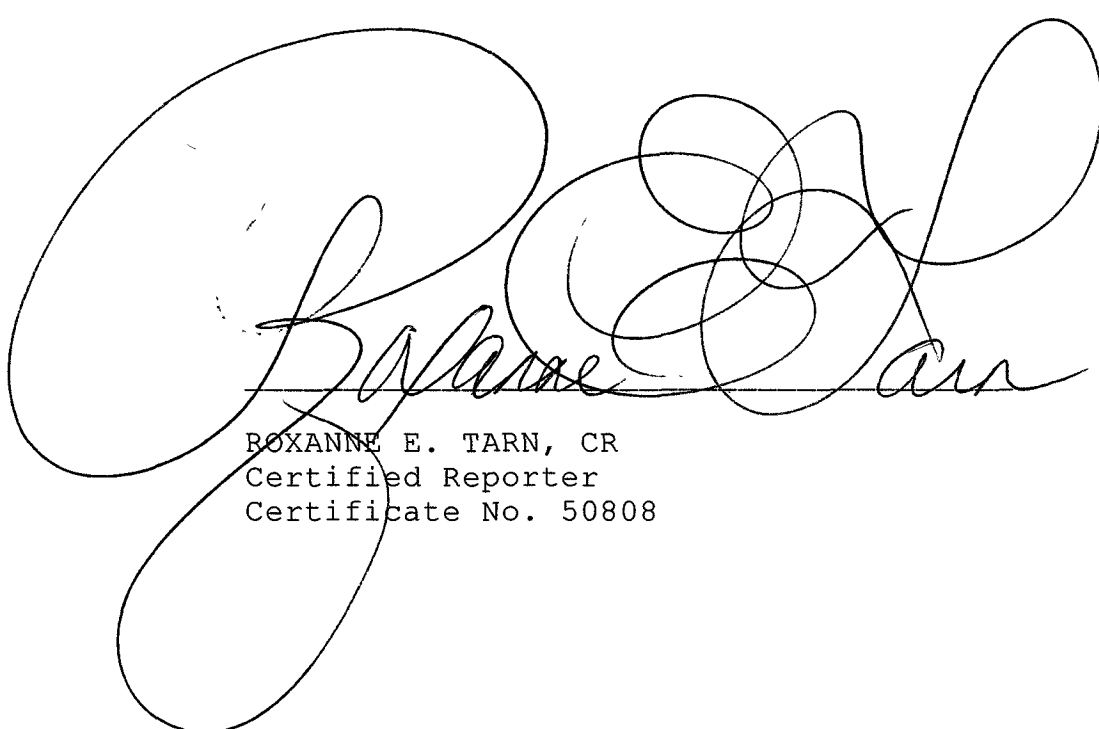
24 MR. SEARS: Thank you, Your Honor.

25 (Whereupon, these proceedings were concluded.)

C E R T I F I C A T E

I, ROXANNE E. TARN, CR, a Certified Reporter
in the State of Arizona, do hereby certify that the foregoing
pages 1 - 155 constitute a full, true, and accurate
transcript of the proceedings had in the foregoing matter,
all done to the best of my skill and ability.

SIGNED and dated this 13th day of July, 2010.

A large, stylized handwritten signature in black ink, appearing to read 'Roxanne E. Tarn', is written over a horizontal line. The signature is highly cursive and loops around itself.

ROXANNE E. TARN, CR
Certified Reporter
Certificate No. 50808